IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XLVII NUMBER 13
December 25, 2024 Pages 6075 to 6747

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

PLEASE NOTE:

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

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

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

Note change of filing deadline

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, January 13, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Organization and operation; state library of Iowa, 1.4(7), 111.2(12), chs 122 to 130 Notice **ARC 8674C** 12/25/24
Programs and funding, ch 131 Notice **ARC 8676C** 12/25/24
Internet use policy, ch 132 Notice **ARC 8673C** 12/25/24

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Organization and general administration, ch 1 Filed **ARC 8436C** 12/11/24
Fair information practices, ch 5 Filed **ARC 8437C** 12/11/24
Public communications and records, ch 6 Filed **ARC 8438C** 12/11/24
Victim notification, ch 7 Filed **ARC 8439C** 12/11/24
Parole and work release considerations, ch 8 Filed **ARC 8440C** 12/11/24
Certificates of employability, ch 9 Filed **ARC 8441C** 12/11/24
Parole and work release supervision, ch 10 Filed **ARC 8442C** 12/11/24
Parole revocation, ch 11 Filed **ARC 8443C** 12/11/24
Parole discharge, ch 12 Filed **ARC 8444C** 12/11/24
Executive clemency, ch 13 Filed **ARC 8445C** 12/11/24
Appeal of decisions, ch 14 Filed **ARC 8446C** 12/11/24
Waivers, ch 15 Filed **ARC 8447C** 12/11/24

PUBLIC HEALTH DEPARTMENT[641]

Congenital and inherited disorders, ch 4 Notice **ARC 8543C** 12/11/24
Maternal deaths, rescind ch 5 Notice **ARC 8576C** 12/25/24
Approval of confirmatory laboratories for private sector drug-free workplace testing, ch 12 Notice **ARC 8485C** . . . 12/11/24
Community water fluoridation grant program, rescind ch 20 Notice **ARC 8492C** 12/11/24
State plumbing code, ch 25 Notice **ARC 8669C** 12/25/24
Oral health, rescind ch 50 Notice **ARC 8494C** 12/11/24
Dental screening, ch 51 Notice **ARC 8507C** 12/11/24
Vision screening, ch 52 Notice **ARC 8528C** 12/11/24
Advisory council on brain injuries, rescind ch 55 Notice **ARC 8499C** 12/11/24
State mechanical code, ch 61 Notice **ARC 8670C** 12/25/24
Renovation, remodeling, and repainting—lead hazard notification process, ch 69 Notice **ARC 8671C** 12/25/24
Lead-based paint activities, ch 70 Notice **ARC 8672C** 12/25/24
Emergency information system on pesticides for use by health care providers during medical emergencies, rescind ch 71 Notice **ARC 8498C** 12/11/24
Childhood lead poisoning prevention program, ch 72 Notice **ARC 8518C** 12/11/24
Special supplemental nutrition program for women, infants, and children (WIC), rescind ch 73 Notice **ARC 8539C** 12/11/24
Family planning services, rescind ch 74 Notice **ARC 8520C** 12/11/24
Family planning services funding prioritization, restrictions and reporting; distribution of federal funds restrictions—provider identification and attestation, ch 75 Notice **ARC 8530C** 12/11/24
Maternal and child health program, ch 76 Notice **ARC 8471C** 12/11/24
Personal responsibility education program and Title V state sexual risk avoidance education grant program funding and restrictions, rescind ch 78 Notice **ARC 8527C** 12/11/24

General rules for migratory labor camps, ch 81 Notice **ARC 8656C** 12/25/24
Healthy families Iowa (HFI), rescind ch 87 Notice **ARC 8502C** 12/11/24
Parental notification of intent to terminate a pregnancy through abortion, ch 89 Notice **ARC 8521C** 12/11/24
State mortality review committee, ch 90 Notice **ARC 8569C** 12/25/24
Iowa domestic abuse death review team, rescind ch 91 Notice **ARC 8566C** 12/25/24
Iowa fatality review committee, rescind ch 92 Notice **ARC 8567C** 12/25/24
Child protection center grant program, rescind ch 94 Notice **ARC 8553C** 12/25/24
Correction or substitution of medical certification of cause of death, 99.10 Notice **ARC 8563C** 12/25/24
Public health response teams, ch 113 Notice **ARC 8460C** 12/25/24
Preparedness advisory committee, rescind ch 114 Notice **ARC 8500C** 12/11/24
Anatomical gift public awareness and transplantation fund, rescind ch 122 Notice **ARC 8455C** 12/25/24
Interagency coordinating council for the state medical examiner, rescind ch 124 Notice **ARC 8464C** 12/25/24
Emergency medical services advisory council, rescind ch 130 Notice **ARC 8461C** 12/25/24
Emergency medical services—providers—initial certification—renewal and reactivation—authority—complaints and investigations, ch 131 Notice **ARC 8545C** 12/25/24
White flashing light authorization, ch 133 Notice **ARC 8462C** 12/25/24
Trauma care facility categorization and verification, ch 134 Notice **ARC 8512C** 12/11/24
Trauma triage and transfer protocols, ch 135 Notice **ARC 8526C** 12/11/24
Trauma registry, ch 136 Notice **ARC 8523C** 12/11/24
Trauma education and training, ch 137 Notice **ARC 8515C** 12/11/24
Trauma system advisory council, rescind ch 138 Notice **ARC 8501C** 12/11/24
Emergency medical services—training programs—students—complaints and investigations, ch 139 Notice **ARC 8538C** 12/11/24
Emergency medical services system development grants fund, ch 140 Notice **ARC 8542C** 12/11/24
Out-of-hospital do-not-resuscitate orders, ch 142 Notice **ARC 8463C** 12/25/24
Automated external defibrillator maintenance, ch 143 Notice **ARC 8457C** 12/25/24
Stroke care reporting, ch 146 Notice **ARC 8465C** 12/25/24
Iowa regionalized system of perinatal health care, ch 150 Notice **ARC 8532C** 12/11/24
Standards for substance abuse treatment and assessment programs and the operating a motor vehicle while intoxicated (OWI) law, ch 157 Notice **ARC 8517C** 12/11/24
Regions for substance abuse prevention and treatment, rescind ch 158 Notice **ARC 8509C** 12/11/24

PUBLIC SAFETY DEPARTMENT[661]

Liquefied petroleum gas, ch 226 Notice **ARC 8677C** 12/25/24
Liquefied natural gas, ch 228 Notice **ARC 8667C** 12/25/24
Manufacturing, storage, handling, use of explosive materials, and licensing for commercial explosive contractors and blasters, rescind ch 231; adopt ch 235 Notice **ARC 8668C** 12/25/24
Standards for electrical work; electrical inspection program—organization and administration, definitions, permits and inspections, utility notifications and responsibilities of utilities; civil penalties, rescind chs 504, 550 to 553, 559; adopt ch 550 Notice **ARC 8582C** 12/25/24

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Sports wagering; fantasy sports contests, 13.2, 13.5, 13.6(3), 14.7(2), 14.8 Notice **ARC 8475C** 12/11/24

REVENUE DEPARTMENT[701]

Determination of aggregate actual values—computation of county acres, 102.12 Filed Emergency After Notice **ARC 8680C** 12/25/24

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Claims for indigent defense service—travel time, 12.5(4) Filed **ARC 8683C** 12/25/24
Claims for other professional services, 13.2 Filed **ARC 8684C** 12/25/24
Claims for attorney fees in 600A terminations—definitions, hourly rate, fee limitations, 14.2, 14.3 Filed **ARC 8685C** 12/25/24

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Organization; administrative elements, amend ch 1; adopt ch 18 Notice **ARC 8661C** 12/25/24

TRANSPORTATION DEPARTMENT[761]

Procurement of equipment, materials, supplies and services, ch 20 Notice **ARC 8486C** 12/11/24
Competition with private enterprise, ch 25 Notice **ARC 8483C** 12/11/24

Interest on retained funds, ch 27 Notice **ARC 8591C** 12/25/24
Recovery of damages to highways or highway structures, ch 40 Notice **ARC 8592C** 12/25/24
Secondary road fund distribution methodology, ch 103 Notice **ARC 8482C** 12/11/24
Utility accommodation, ch 115 Notice **ARC 8594C** 12/25/24
Signing on primary highways, signing for Iowa medal of honor highway, ch 131 Notice **ARC 8467C** 12/11/24
Surface transportation block grant program, ch 162 Notice **ARC 8479C** 12/11/24
Quotation process for governmental entities for public improvement for vertical infrastructure, ch 180 Notice **ARC 8490C** 12/11/24
Driver's privacy protection—motor vehicle records, ch 301 Notice **ARC 8484C** 12/11/24
Vehicle registration and certificate of title, ch 400 Notice **ARC 8593C** 12/25/24
Motor vehicle equipment; equipment and inspection requirements for certain motor vehicles, ch 450 Notice **ARC 8474C** 12/11/24
Towing wrecked or disabled vehicles, ch 454 Notice **ARC 8488C** 12/11/24
Sanctions, ch 615 Notice **ARC 8477C** 12/11/24
OWI and implied consent, ch 620 Notice **ARC 8595C** 12/25/24
Driver education, ch 634 Notice **ARC 8470C** 12/11/24
Motorcycle rider education (MRE), ch 635 Notice **ARC 8472C** 12/11/24

UTILITIES COMMISSION[199]

Practice and procedure, ch 7 Filed **ARC 8430C** 12/11/24
Equipment distribution program, ch 37 Notice **ARC 8431C** 12/11/24

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Organization and procedures; county commissions of veteran affairs fund and training program, amend ch 1; adopt ch 7 Notice **ARC 8583C** 12/25/24

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer records and reports, ch 11 Filed **ARC 8686C** 12/25/24
Forms and informational materials, ch 12 Filed **ARC 8687C** 12/25/24
Contested case proceedings, ch 26 Filed **ARC 8688C** 12/25/24
Request for waiver of administrative rule, ch 41 Filed **ARC 8689C** 12/25/24
Public records and fair information practices, ch 42 Filed **ARC 8690C** 12/25/24
Petitions for rulemaking, ch 43 Filed **ARC 8691C** 12/25/24
Declaratory orders, ch 44 Filed **ARC 8692C** 12/25/24

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mike Klimesh
Vice Chair
Senate District 32

Senator Mike Bousselot
Senate District 21

Senator Sarah Trone Garriot
Senate District 14

Senator Cindy Winckler
Senate District 49

Representative Chad Ingels
Chair
House District 68

Representative Amy Nielsen
House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Organization and operation; state library of Iowa, 1.4(7), 111.2(12), chs 122 to 130 IAB 12/25/24 **ARC 8674C**	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa	January 14, 2025 10 to 11 a.m. January 14, 2025 1:30 to 2:30 p.m.
Programs and funding, ch 131 IAB 12/25/24 **ARC 8676C**	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa	January 15, 2025 10 to 11 a.m. January 15, 2025 1:30 to 2:30 p.m.
Internet use policy, ch 132 IAB 12/25/24 **ARC 8673C**	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa	January 16, 2025 10 to 11 a.m. January 16, 2025 1:30 to 2:30 p.m.

ARCHITECTURAL EXAMINING BOARD[193B]

Continuing education credits—applying excess credits, 3.3(2) IAB 12/25/24 **ARC 8552C**	Suite 100 6200 Park Avenue Des Moines, Iowa Microsoft Teams link Meeting ID: 870 0273 5933 Passcode: 814381 Or dial: 312.626.6799	January 28, 2025 3:30 p.m.
	Suite 100 6200 Park Avenue Des Moines, Iowa Microsoft Teams link Meeting ID: 878 2235 5121 Passcode: 548342 Or dial: 312.626.6799	January 29, 2025 3:30 p.m.

DENTAL BOARD[650]

Agency realignment, rescind chs 1, 6 to 16, 20 to 23, 25 to 27, 29 to 33, 35, 36, 50 to 52 IAB 12/11/24 **ARC 8493C**	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#	January 2, 2025 12 noon to 12:30 p.m. January 3, 2025 12 noon to 12:30 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Public records and fair information practices, ch 195 IAB 12/25/24 **ARC 8663C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	January 14, 2025 1 to 1:15 p.m. January 16, 2025 1 to 1:15 p.m.
Petition for rulemaking, ch 197 IAB 12/25/24 **ARC 8664C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	January 14, 2025 1:15 to 1:30 p.m. January 16, 2025 1:15 to 1:30 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Petition for declaratory order, ch 198 IAB 12/25/24 **ARC 8665C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	January 14, 2025 1:30 to 1:45 p.m. January 16, 2025 1:30 to 1:45 p.m.
Waivers from administrative rules, ch 199 IAB 12/25/24 **ARC 8666C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	January 14, 2025 1:45 to 2 p.m. January 16, 2025 1:45 to 2 p.m.

EDUCATION DEPARTMENT[281]

Accredited schools and school districts—parental rights, age-appropriate library programs, gender identity and sexual orientation, 12.3; dual enrollment, 31.5(4) IAB 12/11/24 **ARCs 8505C**, **8506C**	Room B50 Grimes State Office Building Des Moines, Iowa	December 31, 2024 8 to 9 a.m.

HUMAN RIGHTS DEPARTMENT[421]

Family development and self-sufficiency (FaDSS) program, rescind ch 24 IAB 12/11/24 **ARC 8540C**	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop	January 16, 2025 10 to 11 a.m.
	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV	January 21, 2025 2:30 to 3:30 p.m.
Functions of division, rescind ch 40; hall of fame, rescind ch 41 IAB 12/11/24 **ARCs 8508C**, **8522C**	Microsoft Teams Meeting ID: 281 130 323 Passcode: XDpFQ2:	January 14, 2025 9 to 10 a.m.
	Microsoft Teams Meeting ID: 254 845 374 Passcode: hPYxD2	January 17, 2025 9 to 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Family development and self-sufficiency (FaDSS) program, ch 49; early childhood Iowa initiative, ch 121; payments for foster care, 156.6(1), 156.7 IAB 12/11/24 **ARC 8469C**, **8529C**, **8535C**	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac	January 15, 2025 10 to 11 a.m.
	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn	January 17, 2025 2:30 to 3:30 p.m.
Application for assistance, ch 50; eligibility, ch 51; payment, ch 52 IAB 12/11/24 **ARCs 8468C**, **8531C**, **8536C**	Microsoft Teams Meeting ID: 231 057 860 353 Passcode: fLgjUS	January 14, 2025 1 to 2 p.m.
	Microsoft Teams Meeting ID: 230 344 825 539 Passcode: siQGLw	January 17, 2025 11 a.m. to 12 noon

HUMAN SERVICES DEPARTMENT[441](cont'd)

Facility participation, ch 54 IAB 12/11/24 **ARC 8519C**	Microsoft Teams Meeting ID: 216 574 088 886 Passcode: 6byRqd	January 14, 2025 10:30 to 11:30 a.m.
	Microsoft Teams Meeting ID: 279 027 480 671 Passcode: RWrjKS	January 17, 2025 10 to 11 a.m.
Interim assistance reimbursement, ch 57; refugee cash assistance, ch 60; refugee services program, ch 61; rent reimbursement, ch 62; supplemental nutrition assistance program administration, ch 65; emergency food assistance program, ch 66; special supplemental nutrition program for women, infants, and children (WIC), ch 67; child care centers, ch 109 IAB 12/11/24 **ARCs 8473C**, **8514C**, **8524C**, **8525C**, **8533C**, **8534C**, **8537C** IAB 12/25/24 **ARC 8546C**	Microsoft Teams ID: 225 091 018 909 Passcode: hVKapN	January 14, 2025 2:30 to 3:30 p.m.
	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e	January 17, 2025 1:30 to 2:30 p.m.
Psychiatric medical institution for children—plan of care team, 78.12(2), 78.29(2), 85.3(3), 85.6(3), 85.22(3), 85.24(3); services in psychiatric institutions, ch 85; healthy and well kids in Iowa (hawki) program, ch 86; specialized managed care programs, ch 88; debts due from transfers of assets, ch 89; Medicare drug subsidy, ch 91 IAB 12/25/24 **ARCs 8570C**, **8571C**, **8572C**, **8573C**, **8574C**, **8660C**	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u	January 15, 2025 2 to 3 p.m.
	Microsoft Teams Meeting ID: 299 255 416 174 Passcode: ebdJ6y	January 21, 2025 10 to 11 a.m.
Child support promoting opportunities for parents program, ch 94; adjustment and modification of support, ch 101; suspension and reinstatement of support, ch 102; PROMISE JOBS program, ch 93; child support services, ch 95; information and records, ch 96; collection services center, ch 97; support enforcement services, ch 98; support establishment and adjustment services; child support guidelines, ch 99; establishment of paternity and support, ch 100 IAB 12/25/24 **ARCs 8548C**, **8556C**, **8557C**, **8558C**, **8559C**, **8560C**, **8561C**, **8562C**, **8564C**, **8602C**	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV	January 16, 2025 9 to 10 a.m.
	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ	January 21, 2025 11 a.m. to 12 noon

INSPECTIONS AND APPEALS DEPARTMENT[481]

Dependent adult abuse in facilities and programs, ch 52 IAB 12/11/24 **Regulatory Analysis**	Pine Conference Room 6200 Park Avenue Des Moines, Iowa	January 14, 2025 10 to 10:30 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Bingo, ch 103 IAB 12/11/24 **Regulatory Analysis**	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa	December 31, 2024 9 to 9:30 a.m.
Model rules for contested cases before licensing boards and settlements, ch 506 IAB 12/25/24 **Regulatory Analysis**	6200 Park Avenue, Suite 100 Des Moines, Iowa	January 14, 2025 1:30 p.m.
Definitions; licenses, registrations, permits; practice of pharmacy; controlled and precursor substances; distribution and drug supply chain; drugs in EMS programs; Iowa PMP; board of pharmacy, chs 550 to 557 IAB 11/27/24 **ARCs 8417C**, **8419C** to **8421C**, **8423C**, **8424C**, **8428C**	6200 Park Avenue, Suite 100 Des Moines, Iowa	January 6, 2025 10:30 a.m. January 9, 2025 9:30 a.m.
Dentistry—dental board administration; dental board fees; licensure, registration, renewal and reinstatement; continuing education; standards of practice; dental assistants, dental radiography qualifications, and dental laboratory technicians; dental hygienists; expanded functions; prescribing, administering, and dispensing drugs; sedation and nitrous oxide; complaints and investigations; discipline, chs 570 to 581 IAB 12/11/24 **ARCs 8476C**, **8478C**, **8487C**, **8489C**, **8495C**, **8496C**, **8497C**, **8503C**, **8504C**, **8510C**, **8511C**, **8513C**	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#	January 2, 2025 12 noon to 12:30 p.m. January 3, 2025 12 noon to 12:30 p.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Description of organization, ch 1; registration, ch 2; continuing education, ch 3; grounds for discipline, disciplinary investigations, and disciplinary proceedings, ch 5; disciplinary investigations, rescind ch 6; disciplinary proceedings, rescind ch 7 IAB 12/25/24 **ARCs 8547C**, **8549C**, **8550C**, **8551C**, **8554C**, **8555C**	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd=jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799	January 28, 2025 4 p.m.
	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd=y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799	January 29, 2025 4 p.m.

IOWA FINANCE AUTHORITY[265]

Red tape review, rescind chs 2, 4, 30, 32, 37, 38 IAB 12/11/24 **ARC 8491C**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: www.iowafinance.com/red-tape-review/	January 7, 2025 1:30 to 1:45 p.m. January 9, 2025 1:30 to 1:45 p.m.

IOWA FINANCE AUTHORITY[265](cont'd)

Title guaranty division, ch 9 IAB 12/11/24 **ARC 8466C**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: www.iowafinance.com/red-tape-review/	January 7, 2025 2 to 2:15 p.m. January 9, 2025 2 to 2:15 p.m.
Public records and fair information practices, ch 13 IAB 12/11/24 **ARC 8481C**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: www.iowafinance.com/red-tape-review/	January 7, 2025 2:15 to 2:30 p.m. January 9, 2025 2:15 to 2:30 p.m.
State housing trust fund, ch 19 IAB 12/11/24 **ARC 8480C**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: www.iowafinance.com/red-tape-review/	January 7, 2025 1:45 to 2 p.m. January 9, 2025 1:45 to 2 p.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for hazardous chemicals—adoption by reference, 10.4 IAB 12/25/24 **Regulatory Analysis**	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	January 14, 2025 2:30 to 2:45 p.m.

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Agency reorganization, rescind chs 1 to 3, 6, 7, 10 to 12 IAB 12/25/24 **ARC 8679C**	Ola Babcock Miller Building Des Moines, Iowa	January 14, 2025 10 to 11 a.m. January 14, 2025 1:30 to 2:30 p.m.

MEDICINE BOARD[653]

Administrative/regulatory authority, ch 1; red tape review, rescind chs 3, 12, 14, 15, 18, 25; fees, ch 8; permanent and administrative medicine physician licensure, ch 9; resident, special and temporary physician licensure, ch 10; continuing education and training, ch 11; standards of practice, principles of medical ethics, ch 13; licensure of acupuncturists, ch 17; prescribing psychologists, ch 19; licensure of genetic counselors, ch 20; mandatory reporting, ch 22; discipline, ch 23; complaints and investigations, ch 24; reinstatement after disciplinary action, ch 26 IAB 12/25/24 **ARCs 8659C**, **8693C**, **8694C**, **8695C**, **8696C**, **8697C**, **8698C**, **8699C**, **8700C**, **8701C**, **8702C**, **8703C**, **8705C**, **8706C**	6200 Park Avenue Des Moines, Iowa	January 14, 2025 8:30 a.m. January 15, 2025 8:30 a.m.

NATURAL RESOURCE COMMISSION[571]

Resource enhancement and protection program funds, 33.4(3), 33.19 to 33.30 IAB 12/11/24 **Regulatory Analysis**	Lake Darling Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa	January 8, 2025 10 a.m.

PHARMACY BOARD[657]

Agency realignment, rescind chs 1 to 8, 10 to 23, 25 to 37, 39 to 43, 100 IAB 11/27/24 **ARC 8422C**	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Also via Zoom	January 6, 2025 10:30 a.m. January 9, 2025 9:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Congenital and inherited disorders, ch 4; supplemental nutrition program for women, infants, and children (WIC), rescind ch 73; state mortality review committee, ch 90; correction or substitution of medical certification of cause of death, 99.10; stroke care reporting, ch 146 IAB 12/11/24 **ARCs 8539C**, **8543C** IAB 12/25/24 **ARCs 8465C**, **8563C**, **8569C**	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV	January 16, 2025 10 to 11 a.m. January 21, 2025 2:30 to 3:30 p.m.
Approval of confirmatory laboratories for private sector drug-free workplace testing, ch 12; dental screening, 51; vision screening, ch 52; childhood lead poisoning prevention program, ch 72 IAB 12/11/24 **ARCs 8485C**, **8507C**, **8518C**, **8528C**	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e	January 14, 2025 2:30 to 3:30 p.m. January 17, 2025 1:30 to 2:30 p.m.
Red tape review, rescind chs 20, 50, 55, 71, 74, 78, 87, 91, 92, 94, 114, 122, 130, 138, 158 IAB 12/11/24 **ARCs 8492C**, **8494C**, **8498C**, **8499C**, **8500C**, **8501C**, **8502C**, **8509C**, **8520C**, **8527C** IAB 12/25/24 **ARCs 8455C**, **8461C**, **8553C**, **8566C**, **8567C**, **8576C**	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2 Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2	January 14, 2025 9 to 10 a.m. January 17, 2025 9 to 10 a.m.
State plumbing code, ch 25; state mechanical code, ch 61; migratory labor camps, ch 81 IAB 12/25/24 **ARCs 8656C**, **8669C**, **8670C**	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	January 14, 2025 9 to 9:30 a.m. January 15, 2025 1 to 1:30 p.m.
Renovation, remodeling, and repainting—lead hazard notification process, ch 69; lead-based paint activities, ch 70 IAB 12/25/24 **ARCs 8671C**, **8672C**	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	January 14, 2025 10 to 10:30 a.m. January 15, 2025 2 to 2:30 p.m.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Public health response teams, ch 113; emergency medical services—providers—initial certification—renewal and reactivation—authority—complaints and investigations, ch 131; white flashing light authorization, ch 133; out-of-hospital do-not-resuscitate orders, ch 142; automated external defibrillator maintenance, ch 143; Iowa regionalized system of perinatal health care, ch 150; standards for substance abuse treatment and assessment programs and the OWI law, ch 157 IAB 12/25/24 **ARCs 8457C**, **8462C**, **8463C**, **8545C**, **8460C**, **8517C**, **8532C**	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA	January 15, 2025 1 to 2 p.m. January 21, 2025 9 to 10 a.m.
Interagency coordinating council for the state medical examiner, rescind ch 124 IAB 12/25/24 **ARC 8464C**	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn	January 15, 2025 10 to 11 a.m. January 17, 2025 2:30 to 3:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Liquefied petroleum gas, ch 226; liquefied natural gas, ch 228; manufacturing, storage, handling, use of explosive materials, and licensing for commercial explosive contractors and blasters, rescind ch 231; adopt ch 235 IAB 12/25/24 **ARCs 8667C**, **8668C**, **8677C**	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	January 14, 2025 9:30 to 10 a.m. January 15, 2025 1:30 to 2 p.m.
Standards for electrical work; electrical inspection program—organization and administration, definitions, permits and inspections, utility notifications and responsibilities of utilities; civil penalties, rescind chs 504, 550 to 553, 559; adopt ch 550 IAB 12/25/24 **ARC 8582C**	6200 Park Avenue Des Moines, Iowa	January 28, 2025 11:30 a.m. January 29, 2025 11:30 a.m.

RACING AND GAMING COMMISSION[491]

Sports wagering; fantasy sports contests, 13.2, 13.5, 13.6(3), 14.7(2), 14.8 IAB 12/11/24 **ARC 8475C**	Commission Office 6200 Park Suite 100 Des Moines Iowa	January 2, 2025 9 a.m.

SECRETARY OF STATE[721]

Agricultural reporting, 4.2(3) IAB 12/11/24 **Regulatory Analysis**	Via videoconference meet.google.com/bgd-sijt-agq	December 31, 2024 10 to 11 a.m.
NIST special publications—dates certain, 29.4, 43.9 IAB 12/11/24 **Regulatory Analysis**	Via videoconference meet.google.com/bgd-sijt-agq	December 31, 2024 11 a.m. to 12 noon

SECRETARY OF STATE[721](cont'd)

Fees—mark applications, assignments, cancellations, 40.5(13) IAB 12/11/24 **Regulatory Analysis**	Via videoconference meet.google.com/bgd-sijt-agq	December 31, 2024 12 noon to 1 p.m.
Mechanics' notice and lien registry—notice of commencement of work, preliminary notice, 45.4, 45.5 IAB 12/11/24 **Regulatory Analysis**	Via videoconference meet.google.com/bgd-sijt-agq	December 31, 2024 1 to 2 p.m.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Organization; administrative elements, amend ch 1; adopt ch 18 IAB 12/25/24 **ARC 8661C**	ICN Thompson Conference Room Grimes State Office Building Des Moines, Iowa	January 16, 2025 2 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Procurement of equipment, materials, supplies and services, ch 20 IAB 12/11/24 **ARC 8486C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 427 298 056	January 7, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 325 178 868	January 7, 2025 2 to 2:30 p.m.
Competition with private enterprise, ch 25 IAB 12/11/24 **ARC 8483C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 762 953 536	January 7, 2025 11 to 11:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 626 928 674	January 7, 2025 3 to 3:30 p.m.
Interest on retained funds, ch 27 IAB 12/25/24 **ARC 8591C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 351 420 023	January 14, 2025 11 to 11:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 315 685 313	January 15, 2025 3 to 3:30 p.m.
Recovery of damages to highways or highway structures, ch 40 IAB 12/25/24 **ARC 8592C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 771 905 536	January 14, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 296 427 867	January 15, 2025 11:30 a.m. to 12 noon
Secondary road fund distribution methodology, ch 103 IAB 12/11/24 **ARC 8482C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 242 813 366	January 6, 2025 10 to 10:30 a.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

Utility accommodation, ch 115 IAB 12/25/24 **ARC 8594C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 270 366 478	January 16, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 299 102 354	January 16, 2025 2:30 to 3 p.m.
Signing—on primary highways, for Iowa medal of honor highway, ch 131 IAB 12/11/24 **ARC 8467C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 884 467 433	January 6, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 369 976 022	January 6, 2025 2 to 2:30 p.m.
Surface transportation block grant program, ch 162 IAB 12/11/24 **ARC 8479C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 302 560 536	January 6, 2025 11 to 11:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 838 751 499	January 6, 2025 3 to 3:30 p.m.
Quotation process for governmental entities for public improvement for vertical infrastructure, ch 180 IAB 12/11/24 **ARC 8490C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 260 760 222	January 8, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 952 817 462	January 8, 2025 1 to 1:30 p.m.
Driver's privacy protection—motor vehicle records, ch 301 IAB 12/11/24 **ARC 8484C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 578 341 138	January 6, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 418 156 888	January 6, 2025 1 to 1:30 p.m.
Vehicle registration and certificate of title, ch 400 IAB 12/25/24 **ARC 8593C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 967 150 077	January 17, 2025 9:30 to 10 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 688 969 009	January 17, 2025 1 to 1:30 p.m.
Motor vehicle equipment; equipment and inspection requirements for certain motor vehicles, ch 450 IAB 12/11/24 **ARC 8474C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 750 118 245	January 6, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 741 069 091	January 6, 2025 2 to 2:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

Towing wrecked or disabled vehicles, ch 454 IAB 12/11/24 **ARC 8488C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 827 964 961	January 6, 2025 1 to 1:30 p.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 652 740 49	January 7, 2025 1 to 1:30 p.m.
Sanctions, ch 615 IAB 12/11/24 **ARC 8477C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 970 160 824	January 7, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 227 968 616	January 7, 2025 2 to 2:30 p.m.
OWI and implied consent, ch 620 IAB 12/25/24 **ARC 8595C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 619 667 972	January 17, 2025 11 to 11:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 831 788 850	January 17, 2025 3:30 to 4 p.m.
Driver education, ch 634 IAB 12/11/24 **ARC 8470C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 824 420 750	January 9, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 668 291 488	January 9, 2025 1 to 1:30 p.m.
Motorcycle rider education (MRE), ch 635 IAB 12/11/24 **ARC 8472C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 631 843 106	January 9, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 629 845 33	January 9, 2025 2 to 2:30 p.m.

UTILITIES COMMISSION[199]

Equipment distribution program, ch 37 IAB 12/11/24 **ARC 8431C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	January 15, 2025 9 to 11 a.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	January 23, 2025 2 to 4 p.m.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Organization and procedures; county commissions of veteran affairs fund and training program, amend ch 1; adopt ch 7 IAB 12/25/24 **ARC 8583C**	Google Meeting meet.google.com/bae-qefw-eie?hs=224 Or dial: 219.213.3781 Conference ID: 680862936	January 17, 2025 10 to 10:50 a.m.

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Retired and senior volunteer program (RSVP), rescind ch 7 IAB 12/25/24 **Regulatory Analysis**	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2	January 17, 2025 9 to 10 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]
  Alcoholic Beverages Division[185]
  Banking Division[187]
  Credit Union Division[189]
  Insurance Division[191]
  Professional Licensing and Regulation Bureau[193]
    Accountancy Examining Board[193A]
    Architectural Examining Board[193B]
    Engineering and Land Surveying Examining Board[193C]
    Landscape Architectural Examining Board[193D]
    Real Estate Commission[193E]
    Real Estate Appraiser Examining Board[193F]
    Interior Design Examining Board[193G]
UTILITIES COMMISSION[199]
CORRECTIONS DEPARTMENT[201]
  Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
  Historical Division[223]
ECONOMIC DEVELOPMENT AUTHORITY[261]
  City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
  Educational Examiners Board[282]
  College Student Aid Commission[283]
  Higher Education Loan Authority[284]
  Libraries and Information Services Division[286]
  Public Broadcasting Division[288]
  School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
  Employment Appeal Board[486]
  Child Advocacy Board[489]
  Racing and Gaming Commission[491]
  State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
  Appeal Board, State[543]
  City Finance Committee[545]
  County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
  Environmental Protection Commission[567]
  Natural Resource Commission[571]
  Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
  Professional Licensure Division[645]
  Dental Board[650]
  Medicine Board[653]
  Nursing Board[655]
  Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
  Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
  Labor Services Division[875]
  Workers' Compensation Division[876]
  Workforce Development Board and Workforce Development Center Administration Division[877]

INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 506
"Model Rules for Contested Cases Before Licensing Boards and Settlements"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.3 and 272C.3

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A; Iowa Code chapter 272C as amended by 2024 Iowa Acts, Senate File 2385; and Executive Order 10 (January 10, 2023)

Public Hearing

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

January 14, 2025	6200 Park Avenue, Suite 100
1:30 p.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 Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.250.3746
Email: ashleigh.hackel@dia.iowa.gov

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 506 in accordance with the goals and directives of Executive Order 10. Chapter 506 provides model rules for contested cases before licensing boards that under the Department's administrative authority may adopt to govern their contested case proceedings. As a general matter, the model chapter provides pertinent definitions and requirements related to time, service and filing, probable cause, statements of charges and notices of hearing, legal representation, presiding officers and disqualification of presiding officers, subpoenas and discovery, the handling of pretrial motions and conferences, and procedures for the hearings and issuance of decisions. The chapter provides licensees engaged in contested case hearings before licensing boards an outline of how the contested case proceeding is initiated and the rights and responsibilities of the parties during the process.

This rulemaking proposes revising the Department's model rules for broader applicability to boards under the Department's administrative authority, with the goal of increased standardization. Chapter 506 was repromulgated effective July 31, 2024, when 15 current boards under the Department's administrative authority adopted it through their the 2023 Red Tape Review pursuant to Executive Order 10. The repromulgation proposed herein further refines the chapter for consistency with the contested case chapters of other boards under the Department's administrative authority such that an additional 11 or more boards will be able to easily adopt this chapter. Such boards include the Board of Medicine, Board of Pharmacy, Board of Nursing, and Dental Board, all of which are in the process of rescinding their individual contested case hearings chapter through their 2024 Red Tape Reviews pursuant to Executive Order 10. The proposed rulemaking thus aligns with Executive Order

10's goal of reducing and simplifying the Iowa Administrative Code and creating unity throughout the Department as additional boards under the administrative authority of the Department are in the process of rescinding substantively similar chapters in reliance upon the rules proposed for promulgation herein.

In particular, this rulemaking broadens the scope and applicability of the model chapter, revises pertinent definitions, incorporates fees and costs applicable to the identified boards by Iowa Code section 272C.6, updates procedures related to settlements and statement of charges and notice of hearing documents, and provides for electronic filing and the waiver of procedures. This rulemaking also implements 2024 Iowa Acts, Senate File 2385, by providing procedures for board delegation to administrative law judges as presiding officers in licensee disciplinary hearings.

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 quantifiable costs associated with this proposed rulemaking. The revisions herein merely incorporate content from six current chapters on contested cases so that the Department's model chapter can easily be adopted by an additional 11 or more boards under its administrative authority. However, costs associated with contested case hearings befall licensees who engage in the process, as well as the pertinent board.

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

Licensees of boards under the administrative authority of the Department benefit in that the procedures for contested case hearings are thoroughly set forth in one model chapter that can be consistently adopted and utilized by various boards. Similarly, departmental personnel and boards benefit from clear and consistent 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 revisions herein merely incorporate content from six current chapters on contested cases so that the Department's model chapter can easily be adopted by an additional 11 or more boards under its administrative authority. None of the revisions made to this chapter create new costs for licensees or for boards adopting these procedures. Notably, costs associated with contested case hearings, in general, may include costs of legal representation if a licensee chooses to be represented at a hearing and costs associated with recording and transcribing the hearing should the case go to appeal. A board incurs costs related to service for the initiation of the contested case hearing, as well as staff or board time necessary to conduct the contested case hearing.

- **Qualitative description of impact:**

The process for contested cases is largely dictated by Iowa Code chapter 17A. Additionally, the fees and costs incorporated herein are provided for in Iowa Code section 272C.6(6) and are limited thereby. This proposed chapter provides a balanced regulatory process for initiating and holding contested case hearings. It ensures licensees are aware of their rights and responsibilities when a contested case is set and also provides licensees with guidance on what they can do in terms of legal representation, discovery requests, and options after the board issues a final order. It also provides procedures for the board to delegate to or receive assistance from administrative law judges. The chapter ensures due process is afforded to each licensee and provides for more clear and consistent procedures for licensees appearing in contested cases before licensing boards under the Department's administrative authority.

3. **Costs to the State:**

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

This rulemaking is not anticipated to have any effect on costs borne by the Department or the licensing boards adopting such rules. Boards presently utilize administrative law judges for assistance

with disciplinary contested case proceedings, and procedures for delegation of such hearings to administrative law judges are permissive and not mandatory. Additionally, all fee and costs assessments now included within this chapter are merely being merged into this chapter from other chapters that are being rescinded in other rulemakings. No new fees or costs are being assessed through this rulemaking.

- **Anticipated effect on state revenues:**

This rulemaking is not anticipated to have any effect on state revenues.

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

There are no costs related to this rulemaking, and the benefits include more consistent and standardized contested case procedures for the various licensees that appear before licensing boards under the Department's administrative authority.

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

The Department has not identified any less costly or intrusive methods for achieving the purpose of the proposed rulemaking. The contested case hearing process is largely dictated by Iowa Code chapters 17A and 272C.

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

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

Response in Section "5" above.

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

Response in Section "5" above.

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. Notably, the proposed repromulgated chapter does expressly provide for the waiver of procedures set forth in this chapter unless precluded by law or inconsistent with public interest.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 506 and adopt the following **new** chapter in lieu thereof:

CHAPTER 506
MODEL RULES FOR CONTESTED CASES BEFORE
LICENSING BOARDS AND SETTLEMENTS

481—506.1(17A) Scope and applicability. This model chapter provides rules for contested cases and settlements that licensing boards and commissions may adopt for procedural consistency. This chapter is deemed applicable to any licensing board under the administrative authority of the department, excluding the department's attached units, unless the licensing board has separate rulemaking authority and has adopted rules governing contested cases and settlements.

481—506.2(17A) Definitions. For the purpose of these rules, the following definitions apply:

"Attached units" includes the employment appeal board, office of civil rights, racing and gaming commission, and state public defender's office as described in Iowa Code chapter 10A.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

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

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Licensing board" or *"board"* includes any licensing board set forth in Iowa Code section 272C.1(6) that is under the administrative authority of the department pursuant to Iowa Code chapter 10A, with the exception of the director or the department as referenced in Iowa Code section 272C.1(6)*"ae"* and *"af,"* and also includes any other licensing board under the administrative authority of the department pursuant to Iowa Code chapter 10A that has expressly adopted this chapter.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

"Presiding officer" includes the licensing board, administrative law judge, or panel of not less than three board members who are licensed in the profession as described in Iowa Code section 272C.6(1).

"Probable cause" means a reasonable ground for belief in the existence of facts warranting the specified proceeding.

"Quorum" means a majority of the members of the board unless otherwise defined by the board's authorizing statute.

481—506.3(17A) Time requirements.

506.3(1) Time will be computed as provided in Iowa Code section 4.1(34).

506.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

481—506.4(17A) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board may order that a contested case hearing be commenced by the filing and service of a statement of charges and notice of hearing.

481—506.5(17A) Statement of charges and notice of hearing.

506.5(1) *Legal review.* Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

506.5(2) *Service.* Service of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Service may be executed by:

a. Personal service as provided in the Iowa Rules of Civil Procedure; or

b. Restricted certified mail, return receipt requested; or

c. Signed acknowledgment accepting service; or

d. Publication, as provided in the Iowa Rules of Civil Procedure, when service cannot be accomplished using the above methods.

506.5(3) *Contents.* The statement of charges and notice of hearing will contain the following information:

a. A statement of probable cause to file the statement of charges;

b. A statement of the time, place, and nature of the hearing;

c. A statement of the legal authority and jurisdiction under which the hearing is to be held;

d. A reference to the particular sections of the statutes and rules involved;

e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties' counsel, if known;

g. Reference to the procedural rules governing conduct of the contested case proceeding;

h. Reference to the procedural rules governing settlement;

i. Identification of the presiding officer;

j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11 that the presiding officer be an administrative law judge;

k. Notification of the time period in which the respondent may file an answer; and

l. Notification of the respondent's right to request a closed hearing, if applicable.

506.5(4) *Public record.* A statement of charges and notice of hearing is a public record and open for inspection under Iowa Code chapter 22. Notwithstanding, investigative information included in the statement of charges and notice of hearing as set forth in subparagraph 506.5(3)*"e"* is confidential pursuant to Iowa Code section 272C.6(4)*"a"* and should not be included in the public record. Such confidential information should be redacted from the public record or set forth in a separate document that is not included with the public record.

481—506.6(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board are entitled to legal representation at their own expense.

481—506.7(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case may be the board, an administrative law judge delegated in accordance with rule 481—506.8(17A,272C), or a panel of the board as described in Iowa Code section 272C.6(1). The board may also request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 481—506.24(17A). An administrative law judge may also assist and advise the board at the contested case hearing.

481—506.8(17A,272C) Delegation by board to administrative law judge.

506.8(1) *Delegation.* Upon majority vote of the board, a contested case, whether disciplinary or nondisciplinary, may be delegated to an administrative law judge. The board may delegate the entirety of the case or parts of the case to the administrative law judge. The delegation may occur at the time of filing the notice of hearing and statement of charges and should occur as early as practicable.

506.8(2) *Proposed decisions.* Decisions issued by an administrative law judge are proposed decisions in accordance with Iowa Code section 17A.15. A proposed decision issued by an

administrative law judge becomes a final decision if not timely appealed or reviewed in accordance with this rule.

a. Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. Review. The board may initiate review of the proposed decision on its own motion at any time within 30 days following the issuance of the proposed decision.

c. Exhaustion. A party must timely appeal a proposed decision to the board in order to adequately exhaust administrative remedies.

d. Notice of appeal. An appeal of a proposed decision is initiated by the filing of a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or an attorney for that party and contain a certificate of service. The notice shall specify:

(1) The party initiating the appeal;

(2) The proposed decision or order being appealed;

(3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

(4) The relief sought; and

(5) The grounds for relief.

506.8(3) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

506.8(4) *Scheduling.* The board will issue a schedule for consideration of the appeal.

a. Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

b. Record. The record on appeal or review shall be the entire record made before the administrative law judge.

481—506.9(17A) Presiding officer in a nondisciplinary contested case.

506.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the board.

506.9(2) The board may deny the request only upon a finding that one or more of the following apply:

a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

b. An administrative law judge is unavailable to hear the case within a reasonable time.

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

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

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

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

506.9(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 506.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

506.9(4) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

506.9(5) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of subrule 506.8(2).

481—506.10(17A) Disqualification.

506.10(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that is:

(1) A party to the case, or an officer, director or trustee of a party;

(2) A lawyer in the case;

(3) Known to have an interest that could be substantially affected by the outcome of the case; or

(4) Likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

506.10(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information that is relayed to assigned investigators;

c. Review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case.

506.10(3) Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3), rule 481—506.10(17A), or subrule 506.22(9).

506.10(4) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

506.10(5) If a party asserts disqualification on any appropriate ground, including those listed in subrule 506.10(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board will determine the matter as part of the record in the case.

506.10(6) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but will need to establish the grounds by the introduction of evidence into the record.

481—506.11(17A) Consolidation—severance.

506.11(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

506.11(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

481—506.12(17A) Pleadings.

506.12(1) *Pleadings.* Pleadings may be required by rule, by the statement of charges and notice of hearing, or by order of the presiding officer.

506.12(2) *Answer or appearance.* An answer or appearance, if required, shall be filed by respondent within 20 days of service of the statement of charges and notice of hearing.

a. An answer or appearance will state the name, address, and telephone number of the person filing the answer; the person or entity on whose behalf it is filed; and the attorney representing that person, if any. If the attorney is not licensed to practice law in Iowa, the attorney must fully comply with Iowa Court Rule 31.14.

b. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

506.12(3) *Amendments.* Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

481—506.13(17A) Service and filing.

506.13(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

506.13(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the

person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

506.13(3) *Filing—when required.* After the statement of charges and notice of hearing, all pleadings and motions in a contested case proceeding shall be filed with the board. All documents that are required to be filed with the board shall be appropriately served upon all parties.

506.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board office at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; delivered to an established courier service for immediate delivery to that office; mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing; or filed electronically through AEDMS in accordance with 481—Chapter 16.

506.13(5) *Proof of mailing.* Proof of mailing includes:

a. A legible United States Postal Service postmark on the envelope, or

b. A certificate of service, or

c. A notarized affidavit, or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the _____ Board, and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).

(Date) (Signature)

481—506.14(17A) Discovery.

506.14(1) Discovery procedures applicable in civil actions are applicable in contested cases, with the exception of the mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure. Discovery will be served on all parties to the contested case proceeding but not be filed with the board.

506.14(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided by rule. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

506.14(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

506.14(4) The board's investigative file is available to the respondent or applicant upon request only after the commencement of a contested case and prior to the resolution of the contested case. A licensee who elects to enter into a combined statement of charges and settlement agreement is not entitled to request the investigative file. In accordance with Iowa Code section 272C.6(4), information contained within an investigative file is confidential and may only be used in connection with the disciplinary proceedings.

481—506.15(17A,272C) Subpoenas in a contested case.

506.15(1) Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearings and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at a deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 481—subrule 503.5(1) prior to the issuance of the subpoena.

506.15(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

a. The name, address and telephone number of the person requesting the subpoena;

b. The name and address of the person to whom the subpoena shall be directed;

c. The date, time, and location at which the person shall be commanded to attend and give testimony;

d. Whether the testimony is requested in connection with a deposition or hearing;

e. A description of the books, papers, records or other real evidence requested;

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 481—subrule 503.5(1) have been satisfied.

506.15(3) Each subpoena will contain, as applicable:

a. The caption of the case;

b. The name, address and telephone number of the person who requested the subpoena;

c. The name and address of the person to whom the subpoena is directed;

d. The date, time, and location at which the person is commanded to appear;

e. Whether the testimony is commanded in connection with a deposition or hearing;

f. A description of the books, papers, records or other real evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;

h. The time within which a motion to quash or modify the subpoena must be filed;

i. The signature, address and telephone number of the board administrator or designee;

j. The date of issuance; and

k. A return of service.

506.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will email the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

506.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified before the earlier of the date specified for compliance or 14 days after the subpoena is served. The motion may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

506.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

506.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

506.15(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

481—506.16(17A) Motions.

506.16(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

506.16(2) Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

506.16(3) The presiding officer may schedule oral argument on any motion.

506.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

506.16(5) Dispositive motions, such as motions for summary judgment or motions to dismiss, must be filed and served on all parties at least 30 days prior to the scheduled hearing date unless otherwise ordered or permitted by the presiding officer. Any party may file a written response to a dispositive motion within ten days after the motion is served unless the time for response is otherwise lengthened or shortened by the presiding officer.

481—506.17(17A) Prehearing conferences.

506.17(1) A prehearing conference may be ordered by the presiding officer, and any party may request a prehearing conference. Prehearing conferences will be conducted by an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

506.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the administrative law judge may issue appropriate orders concerning:

a. The possibility of settlement.

b. The entry of a scheduling order to include deadlines for completion of discovery.

c. Stipulations of law or fact.

d. Stipulations on the admissibility of exhibits.

e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.

g. Stipulations of any provision of law.

h. Identification of matters that the parties intend to request be officially noticed.

i. Consideration of any additional matters that will expedite the hearing.

506.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

481—506.18(17A) Continuances.

506.18(1) Unless otherwise provided, an application for continuance shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the board administrator or designee may issue an order or delegate the matter to an administrative law judge. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge. No continuance shall be

granted within seven days of the date of hearing except for extraordinary, extenuating or emergency circumstances.

506.18(2) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven working days before the hearing, except in cases of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

506.18(3) An oral application for continuance may be made if the board or the presiding officer waives the requirement for a written motion. No application for continuance shall be made or granted without notice to all parties, except in an emergency where notice is not feasible.

506.18(4) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal settlement;

e. The existence of an emergency;

f. Any objection;

g. Any applicable time requirements;

h. The existence of a conflict in the schedules of counsel, parties, or witnesses;

i. The timeliness of the request; and

j. Other relevant factors.

481—506.19(17A,272C) Hearing procedures.

506.19(1) Hearings are conducted before a quorum of the board or an administrative law judge. With respect to contested cases before the board of medicine, if an insufficient number of board members are available to hear a contested case, the executive director, or designee, may request alternate members as defined in rule 653—1.1(17A,147) and Iowa Code sections 148.2A and 148.7(4) to serve on the hearing panel. A hearing panel must include at least six members, at least half of whom must be current board members and at least half of whom must be licensed to practice medicine under Iowa Code chapter 148.

506.19(2) The presiding officer has the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The board may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

506.19(3) All objections will be timely made and stated on the record.

506.19(4) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case.

506.19(5) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument. Subject to terms and conditions prescribed by the presiding officer, parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

506.19(6) The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

506.19(7) Witnesses may be sequestered during the hearing.

506.19(8) The presiding officer has authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

506.19(9) The presiding officer conducts the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

b. The parties are given an opportunity to present opening statements;

c. The parties present their cases in the sequence determined by the presiding officer;

d. Each witness is sworn or affirmed by the presiding officer or the court reporter and subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

506.19(10) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

506.19(11) The hearing will be open to the public unless the licensee requests that the hearing be closed. At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents that are privileged or confidential by law.

506.19(12) Contested case hearings shall be recorded by electronic means or by a certified shorthand reporter. A party may request that a hearing be recorded by a certified shorthand reporter instead of through electronic means by filing a request with the board at least 14 days in advance of the hearing. Parties who request that a hearing be recorded by a certified shorthand reporter rather than by electronic means shall bear the cost of the certified shorthand reporter. Upon request, the board shall provide a copy of the whole or any portion of the record costs. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. If the request for the hearing record is made as a result of a petition for judicial review, the party who filed the petition shall be considered the requesting party.

481—506.20(17A) Evidence.

506.20(1) The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

506.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

506.20(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

506.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

506.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

506.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

506.20(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to

rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

481—506.21(17A) Default.

506.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

506.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

506.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

506.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

506.21(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

506.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

506.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 481—506.24(17A).

506.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and statement of charges and the contested case will proceed accordingly.

506.21(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 481—506.26(17A).

481—506.22(17A) Ex parte communication.

506.22(1) Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

506.22(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

506.22(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

506.22(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 481—506.6(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

506.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

506.22(6) The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

506.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines.

506.22(8) A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

506.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

506.22(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

481—506.23(17A) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record is paid by the requesting party.

481—506.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to review an interlocutory order, the board will consider:

506.24(1) The extent to which granting the interlocutory appeal would expedite final resolution of the case; and

506.24(2) The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

481—506.25(17A) Decisions.

506.25(1) *Final decisions.*

a. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with rule 481—506.13(17A).

b. A decision of a hearing panel of the board of medicine containing alternate members is considered a final decision of the board in accordance with Iowa Code section 148.2A.

506.25(2) *Proposed decisions.*

a. Panel of specialists for board of medicine. When a panel of three specialists for the board of medicine presides over the hearing, the panel shall issue a proposed decision that includes findings of fact but does not include conclusions of law. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date of the proposed decision was issued.

b. Panel of board members or administrative law judge. When a panel of three or more board members or an administrative law judge presides over the hearing, the panel or administrative law judge shall issue a proposed decision that includes proposed findings of fact, conclusions of law, and an order. A proposed decision shall be reviewed by the board within 30 days of the date of the proposed decision was issued. A proposed decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 506.25(2)*"c."*

c. Appeal of proposed decisions. A proposed decision pursuant to paragraph 506.25(2)*"a"* or *"b"* may be appealed to the full board by either party by serving on the board administrator, either in person, by email or by certified mail, a written notice of appeal within three days after service of the proposed decision on the appealing party.

(1) Following receipt of a notice of appeal, the board will enter an order establishing a schedule for further proceedings, which may include submission of briefs and oral argument. The parties shall serve their briefs on the board and each party.

(2) Oral argument may be heard by the board and may be waived by the parties. The time granted each party for oral argument is established by the board.

(3) The record on appeal includes the entire record made before the presiding officer. Costs associated with the appeal shall be paid by the appealing party.

d. Confidentiality. At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

e. Requests to present additional evidence. A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

(1) The evidence is material; and

(2) The evidence arose after the completion of the original hearing; or

(3) Good cause exists for failure to present the evidence at the original hearing; and

(4) The party has not waived the right to present additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to

the hearing panel or administrative law judge for further hearing or may itself preside at the taking of additional evidence.

481—506.26(17A) Applications for rehearing.

506.26(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

506.26(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

506.26(3) *Additional evidence.* A request that additional evidence be considered on rehearing is governed by paragraph 506.25(2)*"e."*

506.26(4) *Filing deadline.* The application shall be filed with the board within 20 days after issuance of the final decision.

506.26(5) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

506.26(6) *Disposition.* Any application for a rehearing is deemed denied unless the agency grants the application within 20 days after its filing.

506.26(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

506.26(8) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

481—506.27(17A) Stays of agency actions.

506.27(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy. A party must petition the board for a stay pursuant to this rule prior to requesting a stay from the district court in a judicial review proceeding.

506.27(2) *When granted.* In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5)*"c."* The board will not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

506.27(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

481—506.28(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

481—506.29(17A) Emergency adjudicative proceedings.

506.29(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a

license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order.

506.29(2) *Factors for consideration.* Before issuing an emergency adjudicative order, the board will consider factors including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

506.29(3) *Issuance of order.*

a. An emergency adjudicative order contains findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately served upon the person who is required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency;

(4) Email to the last email on file with the agency; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

506.29(4) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

506.29(5) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for hearing.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

481—506.30(17A) Appeal. Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

481—506.31(272C) Public record. The final decision of the board in a contested case is a public record. The board will report final decisions to the appropriate organizations, which may include but are not limited to the National Practitioner Data Bank and any media or other organizations that have filed a request for public information.

481—506.32(272C) Reinstatement.

506.32(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

506.32(2) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

506.32(3) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

506.32(4) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

506.32(5) An order of reinstatement will be based upon a decision that incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

481—506.33(17A,272C) License denial. An applicant may appeal a preliminary notice of denial of license by filing a written notice of appeal and request for hearing with the board within 30 days of the date that the preliminary notice of denial of license was mailed or emailed by the board. The hearing is a contested case conducted in accordance with this chapter.

481—506.34(272C) Disciplinary hearings—fees and costs.

506.34(1) *Definitions.* As used in this rule in relation to formal disciplinary action filed by the board against a licensee, the following definitions apply:

"Deposition" means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

"Evaluation fees" means actual costs incurred by the board in a physical, mental, chemical abuse, other impairment-related examination or evaluation or clinical competency evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

"Expenses" means costs incurred by persons appearing pursuant to a subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and includes mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

"Transcript" means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

"Witness fees" means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation is the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

506.34(2) *Disciplinary hearing fee and related hearing costs.* As set forth in Iowa Code section 272C.6(6), a board created pursuant to Iowa Code chapter 147, 154A, 155, 169, 542, 542B, 543B, 543D, 544A, or 544B may charge a fee not to exceed $75 for conducting a disciplinary hearing that results in disciplinary action taken against the licensee by the board. The board may also recover from the licensee the costs for transcripts, witness fees and expenses, depositions, and medical examination fees incurred relating to a person licensed under Iowa Code chapter 147, 154A, 155, or 169. An order assessing a fee will be included as part of the board's final decision and will direct the licensee to

deliver payment directly to the board. The allocation of fees and costs collected pursuant to this subrule is in accordance with Iowa Code section 272C.6(6)*"b."* The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may recover the costs for the court reporter and assess the transcript costs against the licensee pursuant to Iowa Code section 272C.6(6), if applicable, or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board that occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the agency appeal process.

b. Witness fees and expenses. The parties in a contested case are responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess the licensee the witness fees and expenses incurred by the witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses are determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses are determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences for failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines.

c. Deposition costs. Deposition costs for purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition that are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition cost includes a reasonable fee for an expert witness. This fee will not exceed the expert's customary hourly or daily fee and shall include the time reasonably and necessarily spent in connection with such deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for that deposition.

d. Medical examination fees. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

506.34(3) *Certification of reimbursable costs.* The board administrator or designee will certify any reimbursable costs incurred by the board. The board administrator will calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

506.34(4) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed. If the board also assesses reimbursable costs against the licensee, the board will file a certification of reimbursable

costs that includes a statement of costs delineating each category of costs and the amount assessed. The board will specify the time period in which the fees and costs must be paid by the licensee.

a. Prior to seeking judicial review, a party shall file an objection to any fees or costs imposed by the board in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application will be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculation of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

506.34(5) *Payment of fees and costs.* All fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to the board and delivered to the board office.

506.34(6) *Failure to make payment.* Failure of a licensee to pay any fees and costs within the time specified in the board order constitutes a violation of an order of the board and may be grounds for disciplinary action.

481—506.35(17A,272C) Settlement agreements.

506.35(1) Upon a determination by the board that probable cause exists to take public disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement or consent order. Entering into a combined statement of charges and settlement agreement or consent order is voluntary, and no licensee is entitled to be offered a combined statement of charges and settlement agreement or consent order. The combined statement of charges and settlement agreement or consent order shall include a brief statement of the charges, the circumstances that led to the charges, and the terms of settlement. Execution of a combined statement of charges and settlement agreement or consent order constitutes the commencement and resolution of a contested case proceeding. By electing to sign a combined statement of charges and settlement agreement, the licensee waives the right to a contested case hearing on the matter and waives the right to receive the investigative file. A combined statement of charges and settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(2) Any contested case may be resolved by settlement agreement or consent order. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The assistant attorney general representing the state of Iowa or approved department personnel are authorized to negotiate on behalf of the board.

506.35(3) The full board will not be involved in negotiations until a written proposed settlement is submitted to the full board for approval unless both parties waive this prohibition.

506.35(4) Consent to negotiation by the respondent during settlement negotiations constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee or approved department personnel. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

506.35(5) Settlement agreements shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

506.35(6) All settlements are subject to approval by the majority of the board. If the board fails to approve the settlement, it will be of no force or effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

506.35(7) A settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(8) The board may accept the voluntary surrender of a license if it is accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

481—506.36(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver if it deems the waiver to be inconsistent with the public interest.

These rules are intended to implement Iowa Code chapters 17A and 272C.

Regulatory Analysis

Notice of Intended Action to be published: rule 875—10.4(88)
"Federal Industry Safety and Health (OSHA) Rules"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 88.5

State or federal law(s) implemented by the rulemaking: 29 CFR 1910 as amended by 89 Fed. Reg. 81829 (October 9, 2024)

Public Hearing

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

January 14, 2025 2:30 to 2:45 p.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Public Comment

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

Mitchell Mahan
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321-1270
Phone: 515.443.1051
Email: mitchell.mahan@dia.iowa.gov

Purpose and Summary

This rulemaking proposes an amendment that adopts by reference a mandatory federal rule relating to the classification and labeling of hazardous chemicals. The federal rule corrects typographical errors and makes technical changes to 89 Fed. Reg. 44144 (May 20, 2024), adopted in **ARC 8411C**, published November 27, 2024. In addition, the rulemaking proposes to add a reference to 54 Fed. Reg. 31765 (August 1, 1989), which was unintentionally omitted from adoption in **ARC 8411C**.

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.

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

Employers and employees will benefit from more easily readable and more accurate safety rules.

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

- **Quantitative description of impact:**

There is no quantitative impact.

- **Qualitative description of impact:**

The Department discerns no qualitative impact.

3. **Costs to the State:**

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

There are no increased implementation or enforcement costs.

- **Anticipated effect on state revenues:**

There is no anticipated fiscal impact on state revenues.

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

The proposed rulemaking is a benefit because it fulfills the requirement that Iowa's state plan for OSHA must be as effective as federal OSHA regulations. Inaction could cost the State the federal funding that accounts for 50 percent of the funding for Iowa's work safety program and lead to federal OSHA asserting jurisdiction over employers currently subject to Iowa OSHA.

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

Less intrusive or less costly methods do not exist because Iowa OSHA regulations are obligated to match federal OSHA regulations.

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

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

No alternative methods were seriously considered.

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

Not applicable.

Small Business Impact

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

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

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

Small businesses get a penalty reduction when Iowa OSHA penalties are assessed.

Text of Proposed Rulemaking

ITEM 1. Amend rule 875—10.4(88) as follows:

875—10.4(88) Adoption by reference. The rules beginning at 1910.20 and continuing through 1910, as adopted by the United States Secretary of Labor, shall be the rules for implementing Iowa Code chapter 88. This rule adopts the Federal Occupational Safety and Health Standards of 29 CFR, Chapter XVII, Part 1910, as published at 37 Fed. Reg. 22102 to 22324 (October 18, 1972) and as amended at:

37 Fed. Reg. 23719 (November 8, 1972)
37 Fed. Reg. 24749 (November 21, 1972)
38 Fed. Reg. 3599 (February 8, 1973)

38 Fed. Reg. 9079 (April 10, 1973)
38 Fed. Reg. 10932 (May 3, 1973)
38 Fed. Reg. 14373 (June 1, 1973)
38 Fed. Reg. 16223 (June 21, 1973)
38 Fed. Reg. 19030 (July 17, 1973)
38 Fed. Reg. 27048 (September 28, 1973)
38 Fed. Reg. 28035 (October 11, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 1437 (January 9, 1974)
39 Fed. Reg. 3760 (January 29, 1974)
39 Fed. Reg. 6110 (February 19, 1974)
39 Fed. Reg. 9958 (March 15, 1974)
39 Fed. Reg. 19468 (June 3, 1974)
39 Fed. Reg. 35896 (October 4, 1974)
39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 3982 (January 27, 1975)
40 Fed. Reg. 13439 (March 26, 1975)
40 Fed. Reg. 18446 (April 28, 1975)
40 Fed. Reg. 23072 (May 28, 1975)
40 Fed. Reg. 23743 (June 2, 1975)
40 Fed. Reg. 24522 (June 9, 1975)
40 Fed. Reg. 27369 (June 27, 1975)
40 Fed. Reg. 31598 (July 28, 1975)
41 Fed. Reg. 11504 (March 19, 1976)
41 Fed. Reg. 13352 (March 30, 1976)
41 Fed. Reg. 35184 (August 20, 1976)
41 Fed. Reg. 46784 (October 22, 1976)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 3304 (January 18, 1977)
42 Fed. Reg. 45544 (September 9, 1977)
42 Fed. Reg. 46540 (September 16, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 11527 (March 17, 1978)
43 Fed. Reg. 19624 (May 5, 1978)
43 Fed. Reg. 27394 (June 23, 1978)
43 Fed. Reg. 27434 (June 23, 1978)
43 Fed. Reg. 28472 (June 30, 1978)
43 Fed. Reg. 28473 (June 30, 1978)
43 Fed. Reg. 31330 (July 21, 1978)
43 Fed. Reg. 35032 (August 8, 1978)
43 Fed. Reg. 45809 (October 3, 1978)
43 Fed. Reg. 49744 (October 24, 1978)
43 Fed. Reg. 51759 (November 7, 1978)
43 Fed. Reg. 53007 (November 14, 1978)
43 Fed. Reg. 56893 (December 5, 1978)
43 Fed. Reg. 57602 (December 8, 1978)
44 Fed. Reg. 5447 (January 26, 1979)
44 Fed. Reg. 50338 (August 28, 1979)
44 Fed. Reg. 60981 (October 23, 1979)

44 Fed. Reg. 68827 (November 30, 1979)
45 Fed. Reg. 6713 (January 29, 1980)
45 Fed. Reg. 8594 (February 8, 1980)
45 Fed. Reg. 12417 (February 26, 1980)
45 Fed. Reg. 35277 (May 23, 1980)
45 Fed. Reg. 41634 (June 20, 1980)
45 Fed. Reg. 54333 (August 15, 1980)
45 Fed. Reg. 60703 (September 12, 1980)
46 Fed. Reg. 4056 (January 16, 1981)
46 Fed. Reg. 6288 (January 21, 1981)
46 Fed. Reg. 24557 (May 1, 1981)
46 Fed. Reg. 32022 (June 19, 1981)
46 Fed. Reg. 40185 (August 7, 1981)
46 Fed. Reg. 2632 (August 21, 1981)
46 Fed. Reg. 42632 (August 21, 1981)
46 Fed. Reg. 45333 (September 11, 1981)
46 Fed. Reg. 60775 (December 11, 1981)
47 Fed. Reg. 39161 (September 7, 1982)
47 Fed. Reg. 51117 (November 12, 1982)
47 Fed. Reg. 53365 (November 26, 1982)
48 Fed. Reg. 2768 (January 21, 1983)
48 Fed. Reg. 9641 (March 8, 1983)
48 Fed. Reg. 9776 (March 8, 1983)
48 Fed. Reg. 29687 (June 28, 1983)
49 Fed. Reg. 881 (January 6, 1984)
49 Fed. Reg. 4350 (February 3, 1984)
49 Fed. Reg. 5321 (February 10, 1984)
49 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 36992 (September 11, 1985)
50 Fed. Reg. 37353 (September 13, 1985)
50 Fed. Reg. 41494 (October 11, 1985)
50 Fed. Reg. 51173 (December 13, 1985)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 24325 (July 3, 1986)
51 Fed. Reg. 25053 (July 10, 1986)
51 Fed. Reg. 33033 (September 18, 1986)
51 Fed. Reg. 33260 (September 19, 1986)
51 Fed. Reg. 34560 (September 29, 1986)
51 Fed. Reg. 45663 (December 19, 1986)
52 Fed. Reg. 16241 (May 4, 1987)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 34562 (September 11, 1987)
52 Fed. Reg. 36026 (September 25, 1987)
52 Fed. Reg. 36387 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
52 Fed. Reg. 49624 (December 31, 1987)
53 Fed. Reg. 6629 (March 2, 1988)
53 Fed. Reg. 8352 (March 14, 1988)

53 Fed. Reg. 11436 (April 6, 1988)
53 Fed. Reg. 12120 (April 12, 1988)
53 Fed. Reg. 16838 (May 11, 1988)
53 Fed. Reg. 17695 (May 18, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 27960 (July 26, 1988)
53 Fed. Reg. 34736 (September 8, 1988)
53 Fed. Reg. 35625 (September 14, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
53 Fed. Reg. 38162 (September 29, 1988)
53 Fed. Reg. 39581 (October 7, 1988)
53 Fed. Reg. 45080 (November 8, 1988)
53 Fed. Reg. 47188 (November 22, 1988)
53 Fed. Reg. 49981 (December 13, 1988)
54 Fed. Reg. 2920 (January 19, 1989)
54 Fed. Reg. 6888 (February 15, 1989)
54 Fed. Reg. 9317 (March 6, 1989)
54 Fed. Reg. 12792 (March 28, 1989)
54 Fed. Reg. 28054 (July 5, 1989)
54 Fed. Reg. 29274 (July 11, 1989)
54 Fed. Reg. 29545 (July 13, 1989)
54 Fed. Reg. 30704 (July 21, 1989)
54 Fed. Reg. 31456 (July 28, 1989)
54 Fed. Reg. 31765 (August 1, 1989)
54 Fed. Reg. 36687 (September 1, 1989)
54 Fed. Reg. 36767 (September 5, 1989)
54 Fed. Reg. 37531 (September 11, 1989)
54 Fed. Reg. 41364 (October 6, 1989)
54 Fed. Reg. 46610 (November 6, 1989)
54 Fed. Reg. 47513 (November 15, 1989)
54 Fed. Reg. 49971 (December 4, 1989)
54 Fed. Reg. 50372 (December 6, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
55 Fed. Reg. 3146 (January 30, 1990)
55 Fed. Reg. 3300 (January 31, 1990)
55 Fed. Reg. 3723 (February 5, 1990)
55 Fed. Reg. 4998 (February 13, 1990)
55 Fed. Reg. 7967 (March 6, 1990)
55 Fed. Reg. 12110 (March 30, 1990)
55 Fed. Reg. 12819 (April 6, 1990)
55 Fed. Reg. 13696 (April 11, 1990)
55 Fed. Reg. 14073 (April 13, 1990)
55 Fed. Reg. 19259 (May 9, 1990)
55 Fed. Reg. 25094 (June 10, 1990)
55 Fed. Reg. 26431 (June 28, 1990)
55 Fed. Reg. 32014 (August 6, 1990)
55 Fed. Reg. 38677 (September 20, 1990)
55 Fed. Reg. 46053 (November 1, 1990)
55 Fed. Reg. 46949 (November 8, 1990)
55 Fed. Reg. 50686 (December 10, 1990)
56 Fed. Reg. 15832 (April 18, 1991)

56 Fed. Reg. 24686 (May 31, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
56 Fed. Reg. 64175 (December 6, 1991)
57 Fed. Reg. 6403 (February 24, 1992)
57 Fed. Reg. 7847 (March 4, 1992)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 22307 (May 27, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 24701 (June 10, 1992)
57 Fed. Reg. 27160 (June 18, 1992)
57 Fed. Reg. 29204 (July 1, 1992)
57 Fed. Reg. 29206 (July 1, 1992)
57 Fed. Reg. 35666 (August 10, 1992)
57 Fed. Reg. 42388 (September 14, 1992)
58 Fed. Reg. 4549 (January 14, 1993)
58 Fed. Reg.15089 (March 19, 1993)
58 Fed. Reg. 16496 (March 29, 1993)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 34845 (June 29, 1993)
58 Fed. Reg. 35308 (June 30, 1993)
58 Fed. Reg. 35340 (June 30, 1993)
58 Fed. Reg. 40191 (July 27, 1993)
59 Fed. Reg. 4435 (January 31, 1994)
59 Fed. Reg. 6169 (February 9, 1994)
59 Fed. Reg. 16360 (April 6, 1994)
59 Fed. Reg. 26115 (May 19, 1994)
59 Fed. Reg. 33661 (June 30, 1994)
59 Fed. Reg. 33910 (July 1, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41057 (August 10, 1994)
59 Fed. Reg. 43270 (August 22, 1994)
59 Fed. Reg. 51741 (October 12, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9624 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33344 (June 28, 1995)
60 Fed. Reg. 33984 (June 29, 1995)
60 Fed. Reg. 47035 (September 8, 1995)
60 Fed. Reg. 52859 (October 11, 1995)
61 Fed. Reg. 5508 (February 13, 1996)
61 Fed. Reg. 9230 (March 7, 1996)
61 Fed. Reg. 9583 (March 8, 1996)
61 Fed. Reg. 19548 (May 2, 1996)
61 Fed. Reg. 21228 (May 9, 1996)
61 Fed. Reg. 31430 (June 20, 1996)
61 Fed. Reg. 43456 (August 23, 1996)
61 Fed. Reg. 56831 (November 4, 1996)
62 Fed. Reg. 1600 (January 10, 1997)
62 Fed. Reg. 29668 (June 2, 1997)
62 Fed. Reg. 40195 (July 25, 1997)

62 Fed. Reg. 42018 (August 4, 1997)
62 Fed. Reg. 42666 (August 8, 1997)
62 Fed. Reg. 43581 (August 14, 1997)
62 Fed. Reg. 48175 (September 15, 1997)
62 Fed. Reg. 54383 (October 20, 1997)
62 Fed. Reg. 65203 (December 11, 1997)
62 Fed. Reg. 66276 (December 18, 1997)
63 Fed. Reg. 1269 (January 8, 1998)
63 Fed. Reg. 13339 (March 19, 1998)
63 Fed. Reg. 17093 (April 8, 1998)
63 Fed. Reg. 20098 (April 23, 1998)
63 Fed. Reg. 33467 (June 18, 1998)
63 Fed. Reg. 50729 (September 22, 1998)
63 Fed. Reg. 66038 (December 1, 1998)
63 Fed. Reg. 66270 (December 1, 1998)
64 Fed. Reg. 13700 (March 22, 1999)
64 Fed. Reg. 13908 (March 23, 1999)
64 Fed. Reg. 22552 (April 27, 1999)
65 Fed. Reg. 76567 (December 7, 2000)
66 Fed. Reg. 5324 (January 18, 2001)
66 Fed. Reg. 18191 (April 6, 2001)
67 Fed. Reg. 67961 (November 7, 2002)
68 Fed. Reg. 75780 (December 31, 2003)
69 Fed. Reg. 7363 (February 17, 2004)
69 Fed. Reg. 31881 (June 8, 2004)
69 Fed. Reg. 46993 (August 4, 2004)
70 Fed. Reg. 53929 (September 13, 2005)
70 Fed. Reg. 1140 (January 5, 2005)
71 Fed. Reg. 10373 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)
71 Fed. Reg. 63242 (October 30, 2006)
72 Fed. Reg. 7190 (February 14, 2007)
72 Fed. Reg. 64428 (November 15, 2007)
72 Fed. Reg. 71068 (December 14, 2007)
73 Fed. Reg. 75583 (December 12, 2008)
68 Fed. Reg. 32638 (June 2, 2003)
74 Fed. Reg. 46355 (September 9, 2009)
74 Fed. Reg. 40447 (August 11, 2009)
75 Fed. Reg. 12685 (March 17, 2010)
76 Fed. Reg. 33606 (June 8, 2011)
76 Fed. Reg. 75786 (December 5, 2011)
77 Fed. Reg. 17764 (March 26, 2012)
76 Fed. Reg. 80738 (December 27, 2011)
77 Fed. Reg. 37598 (June 22, 2012)
77 Fed. Reg. 46949 (August 7, 2012)
78 Fed. Reg. 9313 (February 8, 2013)
78 Fed. Reg. 69549 (November 20, 2013)
79 Fed. Reg. 20629 (April 11, 2014)
79 Fed. Reg. 56960 (September 24, 2014)
80 Fed. Reg. 60036 (October 5, 2015)
81 Fed. Reg. 16090 (March 25, 2016)

81 Fed. Reg. 16861 (March 25, 2016)
81 Fed. Reg. 82981 (November 18, 2016)
82 Fed. Reg. 2735 (January 9, 2017)
83 Fed. Reg. 19948 (May 7, 2018)
84 Fed. Reg. 21457 (May 14, 2019)
84 Fed. Reg. 50755 (September 26, 2019)
84 Fed. Reg. 68795 (December 17, 2019)
85 Fed. Reg. 8731 (February 18, 2020)
86 Fed. Reg. 32620 (June 21, 2021)
86 Fed. Reg. 32620 (June 22, 2021)
83 Fed. Reg. 31045 (July 3, 2018)
85 Fed. Reg. 42625 (July 14, 2020)
89 Fed. Reg. 44144 (May 20, 2024)
89 Fed. Reg. 81829 (October 9, 2024)

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Regulatory Analysis

Notice of Intended Action to be published: 817—Chapter 7
"Retired and Senior Volunteer Program (RSVP)"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15H.2
State or federal law(s) implemented by the rulemaking: Iowa Code section 15H.2

Public Hearing

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

January 17, 2025 9 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

This chapter outlines the Retired and Senior Volunteer Program (RSVP) grant application and administration. At its November 14, 2024, meeting, the Iowa Commission on Volunteer Service voted to rescind the chapter and put the information in a policy manual. Federal changes to the awarding process make the current methodology outlined in Chapter 7 untenable. Relying upon policy as opposed to administrative rules will allow the Commission to be more responsive to federal changes moving forward.

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 the proposed rulemaking.

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

Not applicable.

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:**

There are no costs borne by the Commission or the Department.

- **Anticipated effect on state revenues:**

There is no impact on state revenues.

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

The current methodology in the chapter is no longer tenable with the move to competitive awards and the possibility of new and overlapping RSVP projects. The funding methodology outlined in the chapter is based on historical funding. This is no longer applicable in an open competition framework and would result in inefficient and wasteful use of taxpayer dollars, while programs that do need the support may not be able to receive funds. RSVP projects agree with the decision to rescind the chapter. The decision to rescind instead of revise the chapter was made to allow the Commission flexibility to adapt to future anticipated federal changes to the awarding process.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

Small Business Impact

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

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

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

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **817—Chapter 7**.

CORRECTION TO PUBLIC COMMENT DEADLINE FOR ARC 8356C

ARC 8356C, a Notice of Intended Action to rescind Chapter 45 of the Iowa Department of Agriculture and Land Stewardship's administrative rules relating to pesticides and adopt a new chapter on the same subject, was published in the Iowa Administrative Bulletin on November 13, 2024. The Department provides this informational notice to correct the erroneously omitted date of the deadline to provide public comment to the Department on **ARC 8356C**. Comments must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

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

ARC 8674C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rulemaking related to department organization, disposal of state personal property, and state library of Iowa and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 1, "Department Organizations," and Chapter 111, "Disposal of State Personal Property," and to adopt new Chapter 130, "State Library of Iowa," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8A.104(5) and 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.104 and 8A.201 through 8A.234.

Purpose and Summary

The intended purpose of these proposed rules is to provide the public, local libraries, and any branch of state government with the framework for the organization of the State Library of Iowa. The State Library of Iowa became a part of the Department of Administrative Services through 2023 Iowa Acts, Senate File 514, which has since been codified in Iowa Code chapter 8A. These proposed rules are being moved under agency number [11].

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department 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 January 14, 2025. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building

1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

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

January 14, 2025 10 to 11 a.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa
January 14, 2025 1:30 to 2:30 p.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** subrule 1.4(7):

1.4(7) *State library of Iowa.* The state librarian, appointed by the director, administers the operations of the state library of Iowa. The state librarian also works with the commission of libraries. The state library of Iowa is located at 1112 East Grand Avenue, Des Moines, Iowa 50319. Information regarding the library can be found at statelibraryofiowa.gov.

ITEM 2. Adopt the following **new** subrule 111.2(12):

111.2(12) *Disposal of library materials.* Disposal of library materials under the control of the state library of Iowa shall be undertaken by the state librarian only as a means of strengthening and benefiting the mission of the state library. Materials may be deaccessioned from the collections of the state library if they are no longer deemed relevant and appropriate to the mission of the state library or if they have deteriorated beyond repair and usefulness. Revenue from the disposition of any books or other library materials under the control of the state library of Iowa shall be credited to the state library fund established by the treasurer of state, and proceeds shall be used solely for the purchase of books and other information resources for the state library. Notwithstanding Iowa Code section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state. This subrule implements Iowa Code section 8A.204(2)*"c."*

ITEM 3. Reserve **11—Chapter 122** to **129**.

ITEM 4. Adopt the following **new** 11—Chapter 130:

CHAPTER 130
STATE LIBRARY OF IOWA

11—130.1(8A) Definitions. The definitions used in Iowa Code chapters 8A and 17A will apply for terms used throughout this chapter. In addition, the following definitions will apply:

"Circulating materials" means items that may be loaned and used outside the library.

"Deaccession" means permanent removal of materials from the state library's collections.

"Department" means the department of administrative services.

"Director" means the director of the department of administrative services.

"Holds" means patron requests to reserve items checked out to other patrons. Materials may be placed on hold through the library's online catalog using a library card. When an item on hold becomes available, the patron placing the hold will be contacted and given five days to pick up the item(s) or make arrangements for receipt of items.

"Individual library card" means a card distributed by the state library that allows a patron to access the library's collections, reference assistance, and online resources.

"Library materials" includes but is not limited to books, journals, documents, audiovisuals, and software in any format.

"Proof of identity and state residence" means a government-issued form of identification with a photo and indication of Iowa residency, including but not limited to a driver's license, a passport, a nonoperator's identification card, or a military identification card; or, for minors, a school identification card.

"Resident" means a person who lives in Iowa or pays property taxes in Iowa.

"State employee library card" means a card distributed by the state library that allows a state employee to access the library's collections, reference assistance, online resources, and interlibrary loan services.

"State librarian" means the chief operating officer of the state library.

"State library" means the library agency within the department of administrative services.

11—130.2(8A) Organization and mission. The state library of Iowa exists to improve library services in Iowa and deliver specialized information services to state government and Iowans. The state librarian, appointed by the director, heads the state library of Iowa. The state library consists of the following three units: the library support network (includes the LSTA Grant Program, public library accreditation, library staff endorsement, Enrich Iowa, continuing education and consulting), specialized library services (includes state documents, the state publications depository program, special collections, the state law library, and technical services), and the state data center. Additionally, the commission of libraries advises the department and the state librarian concerning library services.

130.2(1) *Commission of libraries.* The commission of libraries consists of nine members as defined in Iowa Code section 8A.203. The commission shall meet at a time and place specified by the chairperson. All meetings are open to the public, and public notice of all meetings shall be posted in accordance with Iowa Code chapter 21. The current and archived minutes are accessible on the state library's website: statelibraryofiowa.gov.

130.2(2) *State library advisory panel.* The library services advisory panel consists of no fewer than 11 members as defined in Iowa Code section 8A.221. The advisory panel shall meet at a time and place specified by the chairperson. All meetings are open to the public, and public notice of all meetings shall be posted in accordance with Iowa Code chapter 21.

11—130.3(8A) Operations. The state library provides information services to the three branches of government and the general public in accordance with Iowa Code section 8A.211. Services include information delivery and collection access. In-person services are provided at the state capitol building in the state law library, located on the second floor. Digital access to services is available through the state library's website: statelibraryofiowa.gov.

130.3(1) *Information delivery.* Library staff, in conjunction with the patron needs, will determine the best method to process the materials for delivery. Processing fees may be applicable and will be posted on the state library's website: statelibraryofiowa.gov.

130.3(2) *Collection access.* The state library's collections are housed in the Ola Babcock Miller state office building, 1112 East Grand Avenue, Des Moines, and in the state capitol building. Primary research and study areas of the library's two locations are accessible to the disabled; however, upper tiers are generally closed to all public access. Staff will retrieve materials requested by library users or may authorize access on a case-by-case basis.

a. Library cards. A resident of Iowa may obtain an individual library card by providing proof of identity and state residence in person, by mail, or online. A state employee may obtain a state employee library card by providing proof of identity, state residence, and state employment in person, by mail, or online. Cards expire regularly but can be reactivated. Library privileges will be suspended or canceled when a patron's library card has expired.

b. Circulation of library materials. Circulating library materials are able to be checked out to library card holders and may be renewed. Patrons may renew materials in person, by contacting the state library, or through the library's online catalog.

c. Fines and fees. Fines are not assessed for overdue materials. Lost, unreturned or damaged materials may incur replacement costs. Replacement copies will not be accepted. Library privileges will be suspended or canceled when a patron has outstanding debt to the library.

d. Library records confidential. Library records are confidential pursuant to Iowa Code section 22.7(13). The state librarian is the custodian of the library's records.

e. Collection policy of the library. The purpose of this policy, dated April 2016, is to define the intended coverage and clientele; establish collection management and selection policies; provide staff with the means to ensure consistency, responsiveness, and wise use of funds in collection building; assist in development of performance measures; establish priorities to guide budget allocations and cataloging and preservation decisions; and document the library's commitment to intellectual freedom. The collection policy shall be developed and made available on the state library's website: statelibraryofiowa.gov.

These rules are intended to implement Iowa Code sections 8A.202, 8A.203, 8A.210, 8A.211, and 8A.221.

ARC 8676C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rulemaking related to programs and funding and providing an opportunity for public comment

The Administrative Services Department hereby proposes to adopt new Chapter 131, "Programs and Funding," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8A.104(5) and 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.104 and 8A.201 through 8A.234.

Purpose and Summary

The purpose of this chapter is to combine rules addressing similar topics and move them from the former State Library of Iowa rules under agency number [286] to the Department rules under agency number [11]. The State Library of Iowa moved to the Department as part of state government alignment

in 2023 Iowa Acts, Senate File 514, which has been codified in Iowa Code sections 8A.201 through 8A.234.

This new chapter addresses proposed rules for library programs. These proposed rules have been condensed from the two chapters the rules previously existed in. The chapter provides the public, local libraries, and any branch of state government information on the statewide programs and services provided by the State Library of Iowa.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department 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 January 15, 2025. Comments should be directed to:

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

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa
January 15, 2025 1:30 to 2:30 p.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 11—Chapter 131:

CHAPTER 131
PROGRAMS AND FUNDING

11—131.1(8A) Purpose. The state library is charged with developing a long-range plan, known as the State Library of Iowa Library Services and Technology Act (LSTA) Five-Year Plan, for the continued improvement of library services in the state. The major outcomes of this planning effort include the maintenance of the State of Iowa Libraries Online (SILO) program; professional development and continuing education of Iowa library staff, including a voluntary endorsement program for public library staff; the development of standards for public libraries that includes a voluntary accreditation program; the IA Shares delivery service for public libraries; providing Iowans access to the publications of state government; and digital information resources.

11—131.2(8A) Financial support.

131.2(1) *Funding.* Funding for the stated outcomes is provided through both state appropriations and federal funding to the state library.

a. Funding for the Enrich Iowa program, through a state appropriation, allows the state library to implement the program as outlined in Iowa Code section 8A.209.

b. Funding from the federal government is provided through the Grants to States program from the Institute for Museum and Library Services (IMLS). The program's focus is on the following six focal areas: lifelong learning, information access, institutional capacity, employment and economic development, human services, and civic engagement. The current authorization is through the Museum and Library Services Act of 2018 (PL 115-410).

131.2(2) *Federal funding administration.* The state library administers and uses the state-based LSTA funds (in any proportion) directly or through subgrants or cooperative agreements. The actual amount, timing, and availability of funds for projects is determined by the state library in consultation with the Iowa library community. In accordance with the principles set forth in the basic guidelines of the Five-Year Plan for the use of LSTA funds, individual grants are not anticipated. However, when individual grants are deemed to be the appropriate vehicle to meet the identified needs as well as the intent of the guidelines, information on grants will be published and distributed statewide.

a. Eligibility. Eligibility of projects will be determined by the Five-Year Plan for the use of LSTA funds, effective October 2022. The use of the funds will have a major impact on library service to Iowans; increase access to information; have a statewide benefit; foster cooperation, resource sharing, and partnerships; involve all types and sizes of libraries; encourage innovation; and emphasize evaluation. The plan is found on the state library's website: statelibraryofiowa.gov.

b. Reporting procedures. All LSTA grant recipients shall submit to the state library documentation of LSTA project-related expenses and periodic and final project reports. LSTA-funded projects are subject to on-site monitoring by state library personnel.

131.2(3) *Appeals.* Applicants for financial support under these rules may file appeals as outlined below.

a. Informal appeals. Informal appeals shall be made on procedural grounds only. Such grounds include alleged conflicts of interest, unfair or impartial treatment of applications or procedures not

uniformly applied to all applicants. An informal appeal must be filed with the state librarian within seven days of when the appellant was denied financial support.

b. Informal appeal hearing. A written request for an informal appeal hearing shall be sent to the state librarian. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or a designee of the state librarian. The state librarian or their designee shall:

(1) Notify the appellant as to the day, hour, and location of the hearing;

(2) Inform the appellant of the right to submit any written documents regarding the application;

(3) Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person per project. The state librarian or designee shall direct questions only to the spokesperson during the hearing. Any other discussions or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;

(4) Notify the appellant in writing of the decision of the state librarian or designee within five calendar days of the hearing.

c. Formal appeal. If unsatisfied with the decision of the state librarian or designee under the informal appeal process, an applicant may file a formal written appeal with the director within seven days of the informal decision of the state librarian or designee. The director shall issue a written decision within 30 days of receipt of the written appeal. The decision of the director shall be considered final agency action and is subject to judicial review in accordance with Iowa Code chapter 17A.

(1) Appeals will be allowed on the procedural grounds that:

1. Staff or agents of the state library acted outside their statutory authority;
2. Approved projects do not fall within the guidelines of the five-year plan;
3. Staff or agents of the state library were influenced to act as a result of a conflict of interest;
4. Staff or agents of the state library acted in a biased manner.

(2) An appellant's written appeal shall contain:

1. Facts of the appeal.
2. An argument in favor of the appeal.
3. The remedy sought.

11—131.3(8A) Enrich Iowa.

131.3(1) *Purpose.* The Enrich Iowa program is set forth in Iowa Code section 8A.209. Enrich Iowa provides direct state assistance to public libraries, supports the open access and interlibrary loan programs, provides public libraries with an incentive to improve library services, and reduces inequities among communities in the delivery of library services. Enrich Iowa funding is intended to supplement, not replace, local funding.

131.3(2) *Eligibility.* All Iowa libraries are eligible to participate in the Enrich Iowa program. Direct State Aid funding is limited to public libraries meeting Tier 1 requirements or higher. Open Access funding is limited to public libraries meeting Tier 1 requirements or higher and academic libraries. Interlibrary loan reimbursement funding is available to all public, academic, AEA, institutional, school, and special libraries. To participate in the Enrich Iowa program, an Iowa library must sign an agreement from the state library that outlines the general provisions and assurances. Information, including forms for signature, terms of agreement, and program reporting requirements are made available on the state library's website: statelibraryofiowa.gov.

11—131.4(8A) State of Iowa Libraries Online (SILO). Pursuant to Iowa Code section 8A.202, the state library provides resource sharing services, including the Iowa Locator, the statewide union catalog used to locate library items, and the SILO Interlibrary Loan System to all types of libraries in Iowa. SILO also offers hosted services including DNS, email lists, and web hosting to any public library.

11—131.5(8A) Standards and accreditation program. Pursuant to Iowa Code section 8A.202, the state library provides performance measures to encourage the ongoing development of high-quality public library service in the state. "In Service to Iowa: Public Library Measures of Quality, 6th ed. State Library, 2016," is the manual for the state library of Iowa's standards program. Iowa's voluntary public

library standards program was established to give public libraries a tool to identify strengths and areas for improvement. It is also used to document the condition of public library service in Iowa, to distribute Direct State Aid funding, and to meet statutory requirements. Program information can be found on the state library's website: statelibraryofiowa.gov.

This rule is intended to implement Iowa Code section 8A.202(1)*"k."*

11—131.6(8A) Endorsement program for the Iowa public library community. Pursuant to Iowa Code section 8A.202, the state library improves library service in Iowa by developing the skills of public library directors and staff, providing recognition for public librarians, enhancing the public image of librarians and libraries, and providing guidelines that public library boards may use in developing staff hiring policies. Program information can be found on the state library's website: statelibraryofiowa.gov.

11—131.7(8A) Summer library program. Pursuant to Iowa Code section 8A.202, the state library aids public libraries in planning summer reading programs by working with an outside vendor for promotional and programming materials, which are locally adaptable, to help improve library service to youth in Iowa and to improve skills of librarians. Program information can be found on the state library's website: statelibraryofiowa.gov.

11—131.8(8A) State publications depository program. Pursuant to Iowa Code sections 8A.202 and 8A.208, the state publications depository program is established within the state library for the collection and distribution of publications issued by state agencies to designated depository libraries around the state and maintains a digital repository for electronic government publications. The program shall be administered by the state librarian and coordinated through the library's specialized library services unit. The state library shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception. Both print and digital materials are collected for the program.

131.8(1) *Definitions.*

"State agency" means a legislative, executive, or judicial office of the state and all of its respective offices, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

"State publications" are defined as any multiply produced informational products or materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. State information products specifically include but are not limited to public documents appearing as reports, directories, statistical compendiums, bibliographies, lists, state plans, statutes, codes, laws and bills, rules, regulations, transcripts of public hearings, journals, newsletters, bulletins, periodicals, books, pamphlets, brochures, charts, maps, surveys, other printed matter, audiovisual materials, microfilm, microfiche, and all electronic information sources in all electronic formats. State information products do not include correspondence and memoranda intended solely for internal use within the agency or between agencies, materials designated by law as being confidential, materials excluded from this definition by the department through the adoption and enforcement of rules, and materials determined by the depository library center staff to be exempt.

131.8(2) *State agency requirements.* Pursuant to Iowa Code section 8A.205, upon issuance of a state publication in any format, a state agency shall provide the state library an electronic version of the publication at no cost to the state library. The publication will be deposited into Iowa Publications Online, publications.iowa.gov, a digital repository of documents produced by Iowa state agencies. Print documents are accepted. It shall be the responsibility of the issuing state agency to create duplicate copies of publications in limited supply to meet the minimal copy requirements of the depository program as specified by the state library.

131.8(3) *Depository libraries.* The state library and the University of Iowa shall be designated as the two permanent depositories for Iowa state publications. The Library of Congress shall receive one

copy of each state publication collected. Depository status shall be determined by the state librarian. Information about the depository libraries program can be found on the state library's website: statelibraryofiowa.gov.

11—131.9(8A) IA Shares. A statewide delivery service program has been established in the state library to provide a method of sending and receiving library materials between public libraries and the state library. Program information can be found on the state library's website: statelibraryofiowa.gov.

11—131.10(8A) People's law library of Iowa. The state library, in conjunction with the University of Iowa law library, provides an easy-to-understand, basic information website about the law. The people's law library of Iowa is available at: www.peopleslawiowa.org.

These rules are intended to implement Iowa Code sections 8A.202, 8A.205, 8A.208, and 8A.209.

ARC 8673C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rulemaking related to Internet use policy and providing an opportunity for public comment

The Administrative Services Department hereby proposes to adopt Chapter 132, "Internet Use Policy," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8A.104(5) and 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.104 and 8A.201 through 8A.234.

Purpose and Summary

The State Library of Iowa is now a part of the Department of Administrative Services as a result of state government alignment. As part of Executive Order 10, these proposed rules have been reviewed and are being repromulgated under agency number [11]. The purpose of these proposed rules is to show that the State Library of Iowa's Internet Use Policy is in compliance with 20 U.S.C. §9134(f) and the Children's Internet Protection Act as required by the Institute for Museum and Library Services (IMLS). IMLS is the main federal funding agency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

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

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

Public Hearing

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

January 16, 2025 10 to 11 a.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa
January 16, 2025 1:30 to 2:30 p.m.	Ola Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 11—Chapter 132:

CHAPTER 132
INTERNET USE POLICY

11—132.1(8A) Rights and responsibilities. The state library expects the use of all its electronic sources such as the Internet to be responsible, ethical, and legal, and consistent with the purpose for which those resources are provided. The state library complies with the Children's Internet Protection Act (PL 106-554 and 47 U.S.C. 254(h)). To this end:

132.1(1) The state library affirms the right of every individual to have access to constitutionally protected material as stated in the library's collection development policy.

132.1(2) Parents or guardians, not the library or its staff, are responsible for the Internet use by their children.

132.1(3) Internet access is provided in a public area shared by users of all ages, backgrounds, and sensibilities. Users should consider this when accessing potentially controversial information and images.

132.1(4) The state library reserves the right to ask users to discontinue the display of information and images that cause a disruption.

132.1(5) Users should respect the privacy of other Internet users by not observing what sites others are accessing.

132.1(6) Users will not misrepresent themselves as any other user; will not attempt to modify or gain access to files, passwords, or data belonging to others; will not seek unauthorized access to any computer system; and will not damage or alter software components of any network or database.

132.1(7) Illegal activities subject to prosecution include:

a. Destruction of or damage to equipment, software, or data belonging to the library;

b. Violation of computer system security or system configuration;

c. Violation of the copyright laws of the United States;

d. Downloading or provision of child pornography or display of pornography where it may be seen by children.

132.1(8) To the extent practical, steps shall be taken to promote the safety and security of users of the Internet when they are using electronic mail, chat rooms, instant messaging and other forms of direct electronic communications.

132.1(9) The state library ensures the safety and security of minors by:

a. Prevention of inappropriate network usage.

(1) Technology measures shall be used to prevent unauthorized access and other unlawful activities.

(2) Technology measures shall be used to prevent unauthorized disclosure, use, and dissemination of personal identification information.

b. Prevention of access to inappropriate material.

(1) Technology protection measures, i.e., Internet filters, shall be used to block or filter access to inappropriate material on the Internet.

(2) Blocking shall be applied to visual depictions of material deemed obscene, to child pornography, or to any material deemed harmful to minors.

(3) Technology protection measures may be disabled by library staff for adults or, in the case of minors, minimized for bona fide research or other lawful purposes.

11—132.2(8A) Violation of policy. Violation of this computer use policy shall result in the loss of computer privileges and may lead to financial responsibility. Illegal activities will be prosecuted.

11—132.3(8A) Internet access. The Internet can be accessed via wireless connection for any user on a personal device who visits the state library. The Internet may be unavailable due to unforeseen problems with hardware, software or telecommunications. Downloading and saving files to the user's own portable device is allowed. Files saved to the computer's drives are erased at the end of each user's session. Devices may be available to visitors for use during the library's normal business hours. Files saved to devices that the library makes available for visitors to use are erased at the end of each user's session.

11—132.4(8A) Staff assistance. State library staff will answer basic questions about Internet use or help locate resources. Staff reserves the right to waive these procedures as circumstances warrant.

These rules are intended to implement Iowa Code sections 8A.202, 8A.205, 8A.206, 8A.207, and 8A.208.

ARC 8552C

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

Proposing rulemaking related to continuing education credits—applying excess credits and providing an opportunity for public comment

The Architectural Examining Board hereby proposes to amend Chapter 3, "Continuing Education," Iowa Administrative Code.

Legal Authority for Rulemaking

This proposed rulemaking is proposed under the authority provided in Iowa Code chapter 272C and section 544A.29.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544A.

Purpose and Summary

This rulemaking will bring the Board into compliance with 2024 Iowa Acts, House File 2686, which amends Iowa Code section 272C.2(2) to allow a licensee to apply continuing education credits obtained in excess of the requirements for a renewal period to the continuing education requirements for the following renewal period in an amount not to exceed 50 percent of the continuing education credits required for a renewal period. The proposed chapter was approved by the Board on November 21, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321

Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 3:30 p.m.	Suite 100 6200 Park Avenue Des Moines, Iowa https://us02web.zoom.us/j/87002735933?pwd =FTaUmS3qbBbRil5dOyvoEDfplf8FmC.1 Meeting ID: 870 0273 5933 Passcode: 814381 312.626.6799 US
January 29, 2025 3:30 p.m.	Suite 100 6200 Park Avenue Des Moines, Iowa https://us02web.zoom.us/j/87822355121?pwd =OsLUjrECi6cT5DXvaPCHtTxZ7OUc9L.1 Meeting ID: 878 2235 5121 Passcode: 548342 312.626.6799 US

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 3.3(2) and adopt the following **new** subrule in lieu thereof:

3.3(2) All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. A licensee may carry over up to 12 CEHs obtained in excess of the requirements for a renewal period to the following renewal period.

ARC 8663C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 195, "Public Records and Fair Information Practices," Iowa Administrative Code and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 195 and to adopt a new chapter in lieu thereof. The new chapter will incorporate the text of the Uniform Rules on Agency Procedure regarding fair information practices in addition to other information the Authority is required to address as set out at Iowa Code section 22.11.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

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

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 14, 2025 1 to 1:15 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review
January 16, 2025 1 to 1:15 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review

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 Authority 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 261—Chapter 195 and adopt the following **new** chapter in lieu thereof:

PART IX
UNIFORM PROCEDURES: RECORDS, RULEMAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

261—195.1(15,22) Definitions. As used in this chapter:

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

"Confidential records" means records, as identified in Iowa Code section 15.118, 22.7 or any other provision of law, that are not disclosed to members of the public unless otherwise ordered by a court, by the custodian of the records, or by another person duly authorized to release the records. A record may be partially or wholly confidential.

"Custodian" means a lawful custodian as defined in Iowa Code section 22.1.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or is in the physical possession of the authority.

"Record system" means any group of records under the control of the authority from which a record may be retrieved by a personal identifier, such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

"Request for confidential treatment" means a request, made pursuant to rule 261—195.4(15,22), for the authority to treat a record as a confidential record and withhold such record from public inspection.

261—195.2(15,22) Requests for access to authority records.

195.2(1) *Location of record.* A request for access to an authority record should be directed to the authority at 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50309, or an email address indicated on the authority's website for the purpose of requesting records. If a request for access to a record is misdirected, authority staff will promptly forward the request to the appropriate person within the authority.

195.2(2) *Office hours.* Open records are available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding legal holidays.

195.2(3) *Request for access.* Requests for access to authority records may be made in writing, including by email, in person, or by telephone. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. A request made other than in person must include the name, email address, if available, and telephone number of the person requesting the information. If a person asks to be mailed paper copies of a record, a mailing address must be included in the request. A person is not required to give a reason for requesting an open record.

195.2(4) *Response to requests.* The authority is authorized to grant or deny access to records according to the provisions of Iowa Code chapter 22, this chapter or any other provision of law. Access to an open record shall be granted promptly upon request. If the size or nature of the request necessitates time for compliance, the authority shall comply with the request as soon as possible. The authority may delay access to a record for any of the reasons set forth in Iowa Code section 22.8(4) or 22.10(4). The authority must promptly give written notice to the requester of the reason for any delay in access to a record and the estimated length of that delay.

195.2(5) *Security of record.* No person may, without permission from the authority, search or remove any record from authority files. Examination and copying of records will be done under the supervision of authority staff to ensure records are protected from damage and disorganization.

195.2(6) *Copying.* The authority will permit the copying of records as described in Iowa Code section 22.3.

195.2(7) *Fees.* The authority may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. An hourly fee may be estimated in advance and charged for actual authority expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours. When the estimated fee chargeable under this subrule exceeds $25, the authority may require a requester to make an advance payment of all or part of the estimated fee. When a requester has previously failed to pay a fee charged under this subrule, the authority may require advance payment of the full amount of any estimated fee before the authority processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

261—195.3(15,22) Access to confidential records. The following procedures for access to confidential records are in addition to those specified for all authority records in rule 261—195.2(15,22).

195.3(1) A person requesting access to a confidential record may be required to provide proof of identity or authority if access to the record is limited to a particular person or class of persons.

195.3(2) The authority may require a request for access to a confidential record to be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

195.3(3) When the authority denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The written notice will include:

a. The name and title or position of the person or persons responsible for the denial; and

b. A brief statement of the grounds for the denial, including a citation to the applicable provision of law vesting authority in the authority to deny disclosure of the record.

195.3(4) When the authority grants a request for access to a confidential record to a particular person, the authority will indicate any lawful restrictions imposed by the authority on that person's examination and copying of the record.

261—195.4(15,22) Requests for confidential treatment.

195.4(1) A request for confidential treatment must be submitted in writing to the authority and:

a. Identify the information for which confidential treatment is sought.

b. Cite the legal and factual basis for confidential treatment.

c. Identify the name, address, telephone number, and email address, if available, of the person authorized to respond to any inquiry or action of the authority concerning the request.

d. Specify the precise period of time for which the confidential treatment is requested, if applicable.

195.4(2) The authority may request additional factual information from the person requesting confidential treatment.

195.4(3) The authority must notify the requester in writing of the granting or denial of the request. If a request for confidential treatment is denied, the authority shall notify the requester in writing of the reasons for the authority's denial. Pursuant to Iowa Code section 22.8, the authority may reasonably

delay examination of the record. However, if the authority determines that the requester had no reasonable grounds for the request for confidential treatment, then such record shall not be withheld from public inspection for any period of time after the denial of the request. The authority may notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The authority may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the authority to treat the record as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

195.4(4) Failure of a person to request confidential treatment for a record does not preclude the authority from treating the record as a confidential record.

261—195.5(15,22) Additions, dissents or objections. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement must be filed with the authority, must be dated and signed by the person who is the subject of the record, and include the person's current address and telephone number, and email address, if available. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any authority proceeding.

261—195.6(15,22) Notices to suppliers of information. The authority will notify suppliers of information of the use that will be made of the information, which persons outside the authority might routinely be provided the information collected and identify which parts of the requested information are required and which are optional and will state the consequences of failing to provide the information. This notice may be given in the authority's rules, on written forms used to collect the information, in contracts, in program guidance, verbally, or by other appropriate means.

261—195.7(15,22) Disclosure of records—consent.

195.7(1) *Disclosure for routine use.* In this chapter, "routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. To the extent allowed by law, the following uses are considered routine uses of all authority records, including confidential records:

a. Disclosure to those officers, employees, and agents of the authority who have a need for the record in the performance of their duties.

b. Disclosure to a contractor, including but not limited to the department of inspections, appeals, and licensing, for matters in which the contractor is performing services or functions on behalf of the authority.

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

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

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

195.7(2) *Other disclosures of confidential records.* To the extent allowed by law, the following uses may result in disclosure of confidential records without the consent of the subject:

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

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement

activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the authority specifying the record desired and the law enforcement activity for which the record is sought.

d. Disclosure pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

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

f. Disclosures in the course of employee disciplinary proceedings.

g. Disclosure in response to a court order or subpoena.

195.7(3) *Consent to disclosure of confidential records.*

a. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to the subject or to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, if applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, if applicable, the person to whom the record is to be disclosed may be required to provide proof of identity.

b. When a record has multiple subjects with interest in the confidentiality of the record, the authority may take reasonable steps to protect confidential information relating to another subject.

261—195.8(15,22) Availability of records.

195.8(1) Authority open records are open for public inspection and copying unless otherwise prohibited by current rule or law.

195.8(2) Certain records identified in rules 261—195.9(15,22) and 261—195.10(15,22), or otherwise maintained by the authority, may be confidential records, in whole or in part, and not routinely made available for public inspection pursuant to Iowa Code section 15.118, 22.7, or 22A.2 or other applicable law.

261—195.9(15,22) Personally identifiable information.

195.9(1) *Collection, maintenance, and retrieval.* The authority collects personally identifiable information pursuant to Iowa Code provisions relating to the responsibilities of the authority, including but not limited to Iowa Code chapters 15, 15E, 15J, 73, 404A, 473; Iowa Code sections 403.19A and 476.46A; and other applicable laws relating to the responsibilities of the authority. Personally identifiable information is stored by electronic and physical methods. The authority's record systems do not match, collate or compare personally identifiable information in each system with personally identifiable information contained in other record systems. The authority's record systems can collect, maintain and retrieve information by personal identifiers, including names, mailing addresses, and email addresses. This rule describes the nature and extent of personally identifiable information that is collected, maintained and retrieved by the authority by personal identifier in record systems.

195.9(2) *Program records.* Records of persons or organizations participating in the authority's programs are collected by the authority. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information, such as name, address, social security number and telephone number, may be included in these records when the applicant is an individual. Portions of program records may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

195.9(3) *Correspondence.* Records of correspondence from persons outside the authority or sent to persons outside the authority may contain personally identifiable information provided by the sender or recipient of such correspondence. Portions of correspondence may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

195.9(4) *Litigation files.* The authority maintains records regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. These records contain materials that are confidential as attorney work product and attorney-client communications pursuant to Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Federal Rule of Civil

Procedure 26(b)(3); the rules of evidence; the Code of Professional Responsibility; and case law. Some materials are confidential under other applicable provisions of law or as directed by a court order.

195.9(5) *Personnel files.* The authority maintains files containing information about employees, families and dependents, and applicants for positions with the authority. Portions of personnel files may be confidential pursuant to Iowa Code section 22.7(11).

261—195.10(15,22) Other groups of records. This rule describes groups of records maintained by the authority other than record systems. These records are routinely available to the public. All or portions of such records may contain confidential information pursuant to Iowa Code section 22.7 or other applicable law. The records are stored by electronic and physical methods.

195.10(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

195.10(2) *Meeting records.* Agendas, minutes and materials presented to boards and other bodies associated with the authority are available from the authority, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Authority meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

195.10(3) *Publications.* News releases, annual reports, project reports, newsletters, and related documents are available from the authority. Authority news releases, project reports, and newsletters may contain information about individuals, including authority staff. This information is not retrieved by individual identifier.

195.10(4) *Statistical reports.* Periodic reports for various authority programs are available from the authority. Statistical reports do not contain personally identifiable information.

195.10(5) *Published materials.* The authority uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

195.10(6) *Policy manuals.* The authority employees' manual, containing procedures describing the authority's regulations and practices, is available. Policy manuals do not contain information about individuals.

195.10(7) *Other records.* All other records that are not exempt from disclosure by law are available from the authority.

261—195.11(15,22) Applicability. This chapter does not:

195.11(1) Require the authority to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

195.11(2) Make available to the general public records that would otherwise not be available pursuant to Iowa Code chapter 22.

195.11(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the authority that are governed by the regulations of another agency.

195.11(4) Make available records compiled by the authority in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges and applicable regulations of the authority.

These rules are intended to implement Iowa Code chapters 15 and 22.

ARC 8664C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

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

The Economic Development Authority hereby proposes to rescind Chapter 197, "Petition for Rule Making," and to adopt new Chapter 197, "Petition for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 197 and adopt a new chapter in lieu thereof. The new chapter will incorporate Iowa Code chapter 17A by reference and remove language that repeats statute or is otherwise unnecessary.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

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

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 14, 2025 1:15 to 1:30 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review
January 16, 2025 1:15 to 1:30 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review

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 Authority 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 261—Chapter 197 and adopt the following **new** chapter in lieu thereof:

CHAPTER 197
PETITION FOR RULEMAKING

261—197.1(17A) Incorporation by reference. The authority incorporates by this reference all such matters in Iowa Code chapter 17A that relate to petitions for rulemaking.

261—197.2(17A) Petition for rulemaking. Petitions for rulemaking or inquiries about such petitions may be directed to Director, Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315 or director@iowaeda.com. A petition for rulemaking that substantially conforms to the following form will be considered by the authority:

BEFORE THE IOWA ECONOMIC DEVELOPMENT AUTHORITY

Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULEMAKING

The petition should provide the following information:

1. A statement of the specific rulemaking action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule.
2. The name, mailing address, and telephone number of the petitioner and any other person to whom communications concerning the petition should be directed.
3. An explanation of petitioner's arguments in support of the action urged in the petition, including but not limited to a citation to any law deemed relevant to the petition and any data supporting the action requested.

4. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action that is the subject of the petition.

261—197.3(17A) Consideration and disposition of petition. Prior to granting or denying a petition for rulemaking, the authority may request additional information from the petitioner. The authority may schedule a meeting between the petitioner and the authority. The final decision on whether the circumstances justify the granting of a petition is in the sole discretion of the authority. A decision will be issued in accordance with Iowa Code section 17A.7(1).

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

ARC 8665C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to petition for declaratory order and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 198, "Petition for Declaratory Order," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 198 and adopt a new chapter in lieu thereof. The new chapter will remove language that repeats statute or is otherwise unnecessary.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

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

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 14, 2025 1:30 to 1:45 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review
January 16, 2025 1:30 to 1:45 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review

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 Authority 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 261—Chapter 198 and adopt the following **new** chapter in lieu thereof:

CHAPTER 198
PETITION FOR DECLARATORY ORDER

261—198.1(17A) Petition for declaratory order. Any person may file a petition with the authority for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the authority at Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attn: Legal Counsel. Petitions may also be delivered by email to an email address supplied by the authority's legal counsel. A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the authority an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE ECONOMIC DEVELOPMENT AUTHORITY

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the questions presented in the petition.
8. Any request by the petitioner for a meeting provided for by rule 261—198.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

261—198.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the authority shall give notice of the petition to all persons not served by the petitioner pursuant to rule 261—198.6(17A) to whom notice is required by any provision of law. The authority may give notice to any other persons. The authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.

261—198.3(17A) Intervention.

198.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order may intervene in a proceeding for a declaratory order.

198.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the authority.

198.3(3) A petition for intervention shall be filed at the address or email address indicated in rule 261—198.1(17A). A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE ECONOMIC DEVELOPMENT AUTHORITY

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.

2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.

3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.

4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.

5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by or interested in the questions presented.

6. Whether the intervenor consents to be bound by the determination of the matters presented by the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and the intervenor's representative, and a statement indicating the person to whom communications should be directed.

261—198.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The authority may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

261—198.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the address or email address indicated in rule 261—198.1(17A).

261—198.6(17A) Service and filing of petitions and other documents.

198.6(1) Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing with the authority. The party filing a document is responsible for service on all parties and other affected or interested persons.

198.6(2) All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed at the address or email address indicated in rule 261—198.1(17A). All documents are considered filed upon receipt.

261—198.7(17A) Consideration. The authority may schedule a brief and informal meeting between the original petitioner, all intervenors, and authority staff to discuss the questions raised. The authority may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the authority by any person.

261—198.8(17A) Action on petition.

198.8(1) The authority shall take action on the petition in the time frame established by Iowa Code section 17A.9(5).

198.8(2) The date of issuance of an order or of a refusal to issue an order is the date of mailing of the order or refusal or date of delivery if service is by other means unless another date is specified in the order.

261—198.9(17A) Refusal to issue order.

198.9(1) The authority shall not issue a declaratory order if prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with the form indicated in rule 261—198.1(17A).

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the authority to issue an order.

c. The authority does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other authority or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct to establish the effect of that conduct or to challenge a decision the authority has already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition, and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

j. The petitioner requests the authority to determine whether a statute is unconstitutional on its face.

198.9(2) If the authority refuses to issue a declaratory order, the authority must indicate the specific grounds for the refusal. Refusal to issue a declaratory order constitutes final agency action on the petition.

198.9(3) The authority's refusal to issue a declaratory order pursuant to this provision does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for the authority's refusal to issue an order.

261—198.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

261—198.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be provided promptly to the original petitioner and all intervenors.

261—198.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the authority, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the authority. The issuance of a declaratory order constitutes final agency action on the petition.

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

ARC 8666C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to uniform waiver rules and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 199, "Uniform Waiver Rules," and adopt a new Chapter 199, "Waivers from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 15.106A and 17A.9A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 199 and adopt a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated and unclear language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

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

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 14, 2025 1:45 to 2 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review
January 16, 2025 1:45 to 2 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review

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 Authority 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 261—Chapter 199 and adopt the following **new** chapter in lieu thereof:

CHAPTER 199
WAIVERS FROM ADMINISTRATIVE RULES

261—199.1(17A,15) Definitions.

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

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

"Person" means the same as defined in Iowa Code section 17A.2(9).

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

261—199.2(17A,15) Applicability of chapter. The authority may grant a waiver of a rule as permitted by Iowa Code section 17A.9A.

261—199.3(17A,15) Criteria for waiver. In response to a petition filed pursuant to this chapter, the authority may grant a waiver if the authority finds, based on clear and convincing evidence, all of the factors listed in Iowa Code section 17A.9A(2).

261—199.4(17A,15) Filing of petition. Petitions for waiver should be submitted in writing to the Director, Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding, using the caption of the contested case. Petitions may be delivered by email to an email address supplied by the authority's legal counsel.

261—199.5(17A,15) Content of petition. A completed petition for waiver includes the following information where applicable and known to the petitioner:

199.5(1) The name, address, and telephone number of the person for whom a waiver is being requested and the case number of any related contested case.

199.5(2) A description and citation of the specific rule from which a waiver is requested.

199.5(3) The specific waiver requested, including the precise scope and duration.

199.5(4) The relevant facts that the petitioner believes would justify a waiver under criteria described in Iowa Code section 17A.9A(2). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

199.5(5) A history of any prior contacts between the authority and the petitioner relating to the regulated activity, license, financial assistance, or incentives affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

199.5(6) Any information known to the petitioner regarding the authority's treatment of similar cases.

199.5(7) The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.

199.5(8) The name, address, and telephone number of any person who would be adversely affected by the granting of a waiver.

199.5(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

199.5(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the authority with information relevant to the waiver.

261—199.6(17A,15) Notice. The authority will acknowledge a petition within five business days of its receipt. Within 30 days of the receipt of the petition, the authority will provide notice of the pendency of the petition and a copy of the petition or a concise summary of the petition to all persons to whom notice is required by any provision of law. In addition, the authority may give notice to other persons. To accomplish this provision, the authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.

261—199.7(17A,15) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to the following:

199.7(1) When any petition for a waiver is filed within a contested case;

199.7(2) When the authority so provides by rule or order; or

199.7(3) When required to do so by statute.

261—199.8(17A,15) Authority responsibilities regarding petition for waiver.

199.8(1) *Additional information.* Prior to issuing an order granting or denying a waiver, the authority may request additional information from the petitioner relative to the petition and surrounding circumstances. The authority may schedule a meeting between the petitioner and the authority or, if the petition was filed in a contested case, between the petitioner and all parties to the contested case.

199.8(2) *Compliance with Iowa Code standards.* The authority applies the standards and burdens in Iowa Code section 17A.9A(3).

199.8(3) *Final discretion.* The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the authority.

199.8(4) *Ruling.* An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is granted.

199.8(5) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the authority will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

199.8(6) *Time for ruling.* The authority will grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 90 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a pending contested case, the authority will grant or deny the petition no later than the time at which the final decision in that matter is issued. Failure of the authority to grant or deny a petition within the required time period is deemed a denial of that petition by the authority. However, the authority remains responsible for issuing an order denying a waiver.

199.8(7) *Service of order.* Within seven days of its issuance, the authority will transmit an order issued under this chapter to the petitioner or any other person entitled to such notice.

261—199.9(17A,15) Public availability. The authority will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

261—199.10(17A,15) After issuance of a waiver.

199.10(1) *Voiding or cancellation.* A waiver is void if the material facts upon which the petition is based are not true or if material facts have been withheld. The authority may withdraw, cancel or modify a waiver if, after appropriate notice and hearing, the authority issues an order finding any of the following: facts as stated in the request are not true; material facts have been withheld; the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or substantially equal protection of public health, safety, and welfare; or the requester has failed to comply with the conditions of the order.

199.10(2) *Violations.* Violation of a condition in a waiver order is the equivalent of a violation of the particular rule for which the waiver is granted. The recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

199.10(3) *Defense.* After the authority issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

199.10(4) *Judicial review.* Judicial review of the authority's decision to grant or deny a waiver petition may be undertaken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 15.

ARC 8579C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to school safety and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to adopt new Chapter 13, "School Safety," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2024 Iowa Acts, House File 2652.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2652.

Purpose and Summary

The purpose of this rulemaking is to further implement 2024 Iowa Acts, House File 2652, regarding school safety and to provide a process to maintain a list for schools to purchase approved unholstered weapons detection systems.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 20, 2024

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 January 14, 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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 605—Chapter 13:

CHAPTER 13
SCHOOL SAFETY

DIVISION I
APPROVED WEAPON DETECTION SECURITY EQUIPMENT

PREAMBLE

This division implements a program to develop a list of allowable school safety equipment. The equipment in this division is specific to unholstered weapons detection capabilities within a school building or on school property.

605—13.1(90GA,HF2652) Program implementation.

13.1(1) The department will produce and post a list of vendors and products on the department's website meeting the criteria in rule 605—13.2(90GA,HF2652).

13.1(2) The initial list will be established through an application form posted on the department's website at homelandsecurity.iowa.gov.

13.1(3) Vendors wishing to be added to the list at any time may submit the application found on the department's website for consideration and inclusion on the department's list.

605—13.2(90GA,HF2652) Eligibility criteria. Eligibility for vendors and products to appear on the list will be in accordance with appropriate state and federal laws and regulations, including but not limited to the following:

13.2(1) Security requirements.

a. Iowa Code section 423.F.3(6)*"a"*(5) as enacted by 2024 Iowa Acts, House File 2652, section 5.

b. Vendors identified as prohibited companies by a federal acquisition regulation, or other memorandum, are excluded from use. Excluded vendors include but are not limited to the following:

(1) Federal Acquisition Regulation (FAR) 52.204-24 as amended through September 2024—representation regarding certain telecommunications and video surveillance services or equipment.

(2) FAR 52.204-25 as amended through September 2024—prohibition on contracting for certain telecommunications and video surveillance services or equipment.

(3) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

c. Self-certification of provisions within Iowa Code section 423.F.3(6)*"a"*(5)(a) as enacted by 2024 Iowa Acts, House File 2652, section 5, and rule 605—13.2(90GA,HF2652), subject to review and confirmation by the department.

13.2(2) Eligibility criteria in addition to those in Iowa Code section 423F.3(6)*"a"*(5)(i) through 423F.3(6)*"a"*(5)(ix) as enacted by 2024 Iowa Acts, House File 2652, section 5.

a. The vendor is experienced in deploying and maintaining similar types of systems.

b. The system is capable of integrating with existing security cameras (monitoring and alerting) systems.

c. The system has the ability to process input in real-time.

d. The computer/mobile device user interface is intuitive and easy to use.

e. The vendor provides full implementation and user support services.

605—13.3(90GA,HF2652) Security requirements for vendor qualification.

13.3(1) *Transmission.*

a. Ownership of video associated with the instance of an unholstered weapon is the sole property of the school district that purchased and installed the software.

b. A request for duplication or transmission of an incident by the prosecuting attorney or appropriate law enforcement will be complied with.

c. The decision to transmit to outside sources will be made by the school district with the concurrence of the prosecuting attorney or appropriate law enforcement authorization.

13.3(2) *Encryption.* Data collected by the system, including video, is encrypted in transit and at rest. Transport Layer Security (TLS) 1.2 or higher will be used for encryption in transit.

13.3(3) *Authentication.* Multifactor authentication (MFA) is implemented for administrative access to the system.

13.3(4) *Privacy.* Personally identifiable information, including student images, is not streamed live or stored with the vendor with the exception of rule 605—13.4(90GA,HF2652).

13.3(5) *Storage.* The system does not process, store, transmit, or allow access to, data from outside the continental United States (OCONUS).

605—13.4(90GA,HF2652) Data retention for storage of video and data. All video and data associated with an instance of a suspected unholstered weapon shall be maintained for 2,555 days and meet all agency retention requirements.

605—13.5 to **13.20** Reserved.

DIVISION II
GRANT PROGRAM

PREAMBLE

This division implements a grant program to provide grants to applicable school districts. The grant program is to be used by school districts for purchasing infrastructure and equipment related to employee permits to carry weapons, facilitate training associated with employee permits to carry weapons, and provide stipends to employees who participate in the training associated with employee permits to carry weapons.

605—13.21(90GA,HF2652) Definitions.

"Equipment" means tangible personal property having a useful life of more than one year for the fulfillment of 2024 Iowa Acts, House File 2586, section 9.

"Infrastructure" means the same as defined in Iowa Code section 423F.3.

"Training" means the same as described in Iowa Code section 724.6.

605—13.22(90GA,HF2652) Eligibility criteria. Eligible applicants include public school districts, private schools, and institutions of higher education as defined in Iowa Code chapter 256.

605—13.23(90GA,HF2652) Application process. When funding is available, the application for grant funds will be posted on the department's website at homelandsecurity.iowa.gov.

These rules are intended to implement 2024 Iowa Acts, House File 2652.

ARC 8546C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to refugee services program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 61, "Refugee Services Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 217.6 and 217.41; 8 U.S.C. §1522.42; 45 CFR §400.2; Immigration and Nationality Act, Title I, Section 101, and Title II, Chapter 1, Section 208; Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1988, as contained in Section 101(e) of Public Law 100-202 and amended by the ninth proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law (PL) 100-461); and Section 107(b) of the Trafficking Victims Protection Act of 2000 as contained in PL 106-386, Division A, 114 Stat. 1464 (2000).

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter is intended to define and structure the Department's refugee services program, including eligibility criteria, application procedures, reasons for adverse actions, and appeal procedures for clients and sponsors.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 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:

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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 441—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
REFUGEE SERVICES PROGRAM

441—61.1(217) Definitions.

"Cash assistance" means the same as defined in 45 CFR §400 (June 7, 2022).

"Client" means refugees or others determined eligible for services funded under the refugee program.

"Family self-sufficiency plan" means a plan that addresses the employment-related service needs of the employable members in a family for the purpose of enabling the family to become self-supporting through the employment of one or more family members.

"Individual employability plan" means a written plan outlining an individual's vocational goal and the services to be provided to reach the goal.

"Iowa state refugee program plan" means the report that describes the state of Iowa's refugee program plan to meet the standards, goals, and priorities required under the Immigration and Nationality Act and developed by the department on the basis of a consultative process for the successful resettlement of refugees.

"Office of refugee resettlement" means the same as established in 8 U.S.C.A. §1521 (April 30, 1994).

"Refugee" means the same as defined in 8 U.S.C. §1101(a) INA 101 (a)(42) (January 5, 2023).

"Refugee unit" means either an individual refugee or two or more refugees representing an identifiable group, as determined by the department.

"Resettlement agency" means any business, organization or group of related persons having a current contract with the United States Department of State's Bureau of Population, Refugees, and Migration for the resettlement of refugees within the United States of America.

"Unaccompanied refugee minor" means the same as defined in 6 U.S.C.A. §279 (December 23, 2008).

441—61.2(217) Authority. The department has been given authority to administer the refugee program by Executive Order Number 21, signed by the governor December 24, 1985. United States Department of State and United States Department of Health and Human Services rules govern various program operations.

441—61.3(217) Eligibility.

61.3(1) *Eligible immigration status.* Refugees eligible for services are those who have a status listed under 45 CFR §400.43 (June 7, 2022) or one of the following statuses:

a. Iraqi and Afghan Special Immigrants pursuant to Section 1244(g) of Div. A of PL 110-181 (August 1, 2024) (8 U.S.C. §1157 note) and Section 602(b)(8) of Div. F of PL 111-8 (August 1, 2024) (8 U.S.C. §1101 note).

b. Victims of a severe form of trafficking in persons per the Victims of Trafficking and Violence Protection Act of 2000, PL 106-386 (August 1, 2024) and 22 U.S.C. §7105(b) (1) (A) and (C) (August 1, 2024).

61.3(2) *Unaccompanied minors.* In addition to the unaccompanied minors in the categories listed under subrule 61.3(1), the following are eligible for the Office of Refugee Resettlement (ORR) Unaccompanied Refugee Minors Program:

a. Unaccompanied minor with special immigrant juvenile status under 8 U.S.C. §1101(a)(27)(J) (August 1, 2024) who was in the custody of the secretary of health and human services at the time the dependency order was granted for such child or was receiving services pursuant to Section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. §1522 note (August 1, 2024)) at the time such dependency order was granted.

b. Unaccompanied minor who has been granted U status pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. §1101(a)(15)(U) (August 1, 2024)).

441—61.4(217) Planning and coordinating the placement of refugees. Planning and coordinating the placement of refugees will be established in the bureau of refugee services state plan as required by the United States Department of State and United States Department of Health and Human Services.

441—61.5(217) Services of the department available for refugees. All services provided to the refugee and family have self-sufficiency as the goal. Direct and contracted services may include:

61.5(1) *Job development.* These services involve working with employers in job development, placement, training, retention, and upgrading.

61.5(2) *Social adjustment.* These services include assessment and short-term counseling to persons or families in a perceived crisis, referral to appropriate resources, the making of arrangements for necessary services, home management services, transportation, translation and interpretation services, and case management services.

61.5(3) *Health-related services.* These services include information, referral to appropriate resources, assistance in scheduling appointments and obtaining services, and counseling to individuals or families to help them understand and identify their physical and mental health needs and maintain or improve their physical and mental health.

61.5(4) *Resettlement services.* These services involve securing and training sponsors, arranging for refugees to resettle in Iowa and providing case management, employment services, and social adjustment services.

As required under the resettlement contract with the United States Department of State, the department provides case management, employment services, and social adjustment services to the refugees it resettles during their first 90 days in Iowa.

61.5(5) *Any additional service.* These services, upon submission to and approval of the director of the office of refugee resettlement, include any additional service aimed at strengthening and supporting the ability of a refugee individual, family, or refugee community to achieve and maintain economic self-sufficiency, family stability, or community integration that has been demonstrated as effective and is not available from any other funding source.

61.5(6) *Translation and interpretation services.* These services provide interpreter service from English into the refugee languages or vice versa and assistance in translating written materials.

61.5(7) *Immigration services.* These services provide information and assistance to refugees in securing permanent resident alien status and family reunification.

61.5(8) *Adjustment of status.* These services provide guidance in obtaining permanent alien status and citizenship.

61.5(9) *Employability services.* A family self-sufficiency plan will be developed for anyone who receives employment-related services from the department. These services are specifically designed to assist refugees to obtain employment and to improve the employability of work skills of the individual and include job referral to, and job placement with, private employers. Specific employability services include:

a. Employment services, which include such activities as the development of a family self-sufficiency plan, individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and follow-up.

b. Employability assessment services, which include such activities as aptitude and skills testing.

c. English language instruction, which includes referrals to programs that offer a curriculum that places an emphasis on English as it relates to obtaining and retaining a job and to programs that are provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

d. On-the-job training, which includes referrals to training that is provided at the employment site and is expected to result in full-time, permanent, unsubsidized employment with the employer who is providing the training.

e. Vocational training, which includes referrals to driver education and training when provided as part of an individual employability plan.

f. Skills recertification, which includes referrals to training that meets the criteria for appropriate training. If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice the individual's profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training:

(1) Is approved as part of the individual's employability plan by the state agency, or its designee;

(2) Does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance);

(3) Is specifically intended to assist the professional in becoming relicensed in the professional's profession; and

(4) If completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed.

g. Child care, which includes referrals to child care necessary for participation in an employability service or for the acceptance or retention of employment.

h. Transportation when necessary for participation in an employability service or for the acceptance or retention of employment.

i. Translation and interpretation services when necessary in connection with employment or participation in an employability service.

j. Case management services for refugees who are considered employable and for recipients of public assistance who are considered employable, provided that the services are directed toward a refugee's attainment of employment as soon as possible after arrival in the United States.

k. Assistance in obtaining employment authorization documentations.

l. Referral to Iowa workforce development for provision of any or all of the above services.

61.5(10) *Outreach services.* These services include activities designed to familiarize refugees with available services, to explain the purpose of these services, and to facilitate access to these services.

61.5(11) *Referral.* These services enable referral of refugee clients to mainstream service systems.

441—61.6(217) Provision of services.

61.6(1) *Priority of services.* Services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

a. Refugees who are receiving cash assistance.

b. Unemployed refugees who are not receiving cash assistance.

c. Employed refugees in need of services to retain employment or to attain economic independence.

d. All newly arriving refugees in the United States who apply for services during the five-year period from their date of arrival.

61.6(2) *Limitations on eligibility.* Services as described in rule 441—61.5(217) may be provided in the first 60 months of resettlement unless the Office of Refugee Resettlement grants an exception to the 60-month limit. Referral, interpretation, citizenship, and naturalization services may be provided to the extent feasible past 60 months of resettlement for refugees, except that refugees who are receiving employability services, as defined in subrule 61.5(11), as part of an employability plan, as of September 30, 1995, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the United States, pursuant to 45 CFR 400 (June 7, 2022). In any case, services will first be provided for those refugees who are in the first two years of resettlement and who are in need of assistance in securing self-sufficiency.

61.6(3) *Service requirements.*

a. Services provided will be refugee-specific services that are designed specifically to meet refugee needs, except that vocational or job skills training, on-the-job training, or English language training need not be refugee specific.

b. Services will be provided, to the maximum extent feasible, in a manner that is culturally and linguistically compatible with a refugee's language and cultural background.

c. Services will be provided, to the maximum extent feasible, in a manner that includes the use of bilingual or bicultural women on service agency staffs to ensure adequate service access by refugee women.

d. The department will use its social service grants primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible.

e. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job.

f. Social service grant funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

g. In planning and providing services, the department will take into account those services that a resettlement agency is required to provide for a refugee whom it sponsors in order to ensure the provision of coordinated services to refugees that are not duplicative.

h. To avoid interference with refugee employment, English language instruction and vocational training must be provided to the fullest extent feasible outside normal working hours.

i. English language instruction must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

441—61.7(217) Application for services. Any person will have an opportunity to apply for services by contacting the department or any of its affiliated offices either in person, by telephone, by fax, in writing, or by contacting any department staff members. The department will determine the eligibility of each person for services. Applicants for refugee cash assistance will automatically be considered as applicants for services. The department will ensure that refugee women have the same opportunities as refugee men to participate in all services, including job placement services.

441—61.8(217) Adverse service actions.

61.8(1) *Denial.* Services will be denied when the department determines any of the following apply:

a. The client is not in need of the service.

b. The client is not legally eligible.

c. The service is not covered in the state refugee program plan.

d. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.

e. The service for which the client is eligible is currently not available.

f. Funding is not available to provide the service.

g. The client refuses to allow documentation of eligibility.

h. The services requested are those for which other resettlement agencies are contractually responsible.

i. The person requesting service has been in the United States more than 60 months and the services requested do not include referral, interpretation, citizenship, or naturalization services.

61.8(2) *Termination.* A service may be terminated when the department determines any of the following apply:

a. The need to attain the goals to which the service was directed has been achieved.

b. After repeated assessment, it is evident that the family or individual is unable to achieve or maintain goals set forth in the family self-sufficiency or individual employability plan.

c. After repeated efforts, it is evident that the client is unwilling to accept further service.

d. The service is no longer available in the Iowa state refugee program plan.

e. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.

f. Funding is not available to provide the service.

g. The person receiving service has been in the United States more than 60 months and the services the person is receiving do not include referral or interpretation services.

61.8(3) *Reduction.* A service may be reduced when the department determines any of the following apply:

a. Continued provision of service at its current level is not necessary. The department will determine the level to which the service may be reduced without jeopardizing the client's continued progress toward achieving or maintaining the goal.

b. Another community resource is available to provide the same or similar service to the client, at no financial cost to the client, that will meet the client's need.

c. Funding is not available to continue the service at the current level. The client will be reassessed to determine the level of service to be provided.

61.8(4) *Notice of adverse action.* In case of an action to terminate, reduce, or deny services, the department will give timely or adequate notice to the person or persons affected pursuant to 441—Chapter 16.

441—61.9(217) Client appeals. Decisions made by the department or its designee adversely affecting its clients may be appealed according to 441—Chapter 7.

441—61.10(217) Refugee resettlement moneys. Money that is made available to the refugee sponsor for financial assistance in resettling the refugee unit must be spent in accordance with financial requirements and approved expenditures of the department, United States Department of State, and the state of Iowa comptroller and must go toward the benefit of the refugee unit.

441—61.11(217) Unaccompanied refugee minors program. The department administers the unaccompanied refugee minors program under 441—Chapters 156, 112 through 116, and 202 and by federal guidelines provided by the United States Department of Health and Human Services (August 1, 2024). In consultation with other resettlement agencies, the director of the ORR determines the number of unaccompanied minors to be resettled in Iowa pursuant to 45 CFR 400 (June 7, 2022). Resettlement agencies will not bring unaccompanied minors into Iowa without the authorization of the director.

441—61.12(217) Targeted assistance grants. "Targeted assistance grants" means United States Department of Health and Human Services formula allocation funding granted to the department for assistance to counties where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

61.12(1) *Administration of targeted assistance grants.* The department will make 95 percent of the total award available to the designated county except when the designated county has agreed to let the department administer the targeted assistance grant in its stead.

61.12(2) *Eligibility for services under targeted assistance grants.* Services funded by targeted assistance grants are limited to refugees who reside in the designated county.

61.12(3) *Services and limitations for services funded by targeted assistance grants.* Rules of 441—Chapter 61 are applicable to services funded by targeted assistance grants, except for subrules 61.5(5) and 61.6(1).

61.12(4) *Priority of services.* Services funded by targeted assistance grants will be provided in the following order of priority, except in certain individual extreme circumstances:

(1) Cash assistance recipients, particularly long-term recipients.

(2) Unemployed refugees who are not receiving cash assistance.

(3) Employed refugees in need of services to retain employment or to attain economic independence.

These rules are intended to implement Iowa Code sections 217.6 and 217.41 and chapter 622A.

ARC 8575C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to ambulance service and providing an opportunity for public comment

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

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2397.

Purpose and Summary

The purpose of this proposed rulemaking is to implement 2024 Iowa Acts, House File 2397. The legislation creates new Iowa Code section 147A.19, which directs the Department to authorize payment for ambulance transport for persons experiencing a mental health crisis to mental health access centers in amounts similar to the payment for ambulance transport to a hospital emergency room.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.304.0963
Email: joe.campos@idph.iowa.gov

Public Hearing

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

January 14, 2025 10:30 to 11:30 a.m.	Microsoft Teams Meeting ID: 216 574 088 886 Passcode: 6byRqd

January 17, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 279 027 480 671 Passcode: RWrjKS

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 rule 441—78.11(249A) as follows:

441—78.11(249A) Ambulance service. Payment will be approved for ambulance service if it is required by the recipient's condition and the recipient is transported to the nearest hospital with appropriate facilities or to one in the same locality, from one hospital to another, to the patient's home, ~~or~~ to a nursing facility, or to a mental health access center. Payment for ambulance service to the nearest hospital for outpatient service will be approved only for emergency treatment. Ambulance service must be medically necessary and not merely for the convenience of the patient.

78.11(1) to **78.11(5)** No change.

This rule is intended to implement Iowa Code section 249A.4.

ARC 8570C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to psychiatric medical institution for children plan of care team and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 249A and 2024 Iowa Acts, House File 2402.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2402, which allows a physician assistant or advanced registered nurse practitioner to serve as a member of the plan of care team for children admitted to a psychiatric medical institution for children (PMIC) as a member who is

experienced in child psychiatry or child psychology. The legislation also allows a physician assistant or advanced registered nurse practitioner to be a member of the team to complete the certification of need for services for a PMIC placement.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

There is no fiscal impact to this rulemaking other than the underlying fiscal impact of the legislation.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 2 to 3 p.m.	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u
January 21, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 299 255 416 174 Passcode: ebdJ6y

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 subparagraph **78.12(2)"a"(3)** as follows:

(3) Behavioral health intervention is not covered for members who are in an acute care or psychiatric hospital, or a long-term care facility~~, or a psychiatric medical institution for children~~.

ITEM 2. Amend subrule 78.29(2) as follows:

78.29(2) *Exclusions.* Payment will not be approved for the following services:

~~*a.* Services provided in a medical institution.~~

~~*b.*~~ *a.* Services performed without relationship to a specific condition, risk factor, symptom, or complaint.

~~*c.*~~ *b.* Services provided for nonspecific conditions of distress such as job dissatisfaction or general unhappiness.

~~*d.*~~ *c.* Sensitivity training, marriage enrichment, assertiveness training, and growth groups or marathons.

ITEM 3. Amend paragraph **85.3(3)"a"** as follows:

a. For persons eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department ~~of human services~~. A physician's assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient's admission.

ITEM 4. Adopt the following **new** subparagraph **85.6(3)"c"(4)**:

(4) The team may also include a physician's assistant or an advanced registered nurse practitioner.

ITEM 5. Amend paragraph **85.22(3)"a"** as follows:

a. For persons determined eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department ~~of human services~~. A physician's assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient's admission.

ITEM 6. Adopt the following **new** subparagraph **85.24(3)"c"(4)**:

(4) The team may also include a physician's assistant or an advanced registered nurse practitioner.

ARC 8574C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to services in psychiatric institutions and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

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

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. Inpatient psychiatric services are provided in three types of psychiatric facilities in addition to general hospitals with psychiatric units: acute care psychiatric hospitals, psychiatric medical institutions for children, and nursing facilities for the mentally ill. Except for services in the state mental health institutes, Medicaid covers only persons under the age of 21 and persons aged 65 and older in acute care psychiatric hospitals. Medicaid covers only persons under the age of 21 in psychiatric medical institutions for children and only persons aged 65 and older in nursing facilities for the mentally ill. These proposed rules establish conditions of participation for providers, recordkeeping requirements, reimbursement methodologies, and client eligibility requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

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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 441—Chapter 85 and adopt the following **new** chapter in lieu thereof:

CHAPTER 85
SERVICES IN PSYCHIATRIC INSTITUTIONS

441—85.1(249A) Acute care in psychiatric hospitals. These rules do not apply to general hospitals with psychiatric units.

85.1(1) *Psychiatric hospitals serving persons aged 21 and older.* A psychiatric hospital serving persons aged 21 and older shall meet the federal criteria for an institution for mental disease and shall be licensed pursuant to rule 481—51.36(135B). An out-of-state facility shall be licensed as a psychiatric hospital, shall meet the federal criteria for an institution for mental disease, and shall be certified to participate in the Medicare program. An institution is an institution for mental disease only if its overall character is that of a facility established and maintained primarily for the care and treatment of persons with mental diseases. The following guidelines are used by the department in evaluating the overall character of a facility. These guidelines are all useful in identifying institutions for mental disease; however, no single guideline is necessarily determinative in any given case.

a. The facility:

(1) Is licensed as a psychiatric facility for the care and treatment of persons with mental diseases.

(2) Advertises or holds itself out as a facility for the care and treatment of persons with mental diseases.

(3) Is accredited as a psychiatric facility by the Joint Commission or by any other federally recognized accrediting organization that has comparable standards or surveys and is approved by the department of inspections, appeals, and licensing.

(4) Specializes in providing psychiatric or psychological care and treatment. This may be ascertained through review of patients' records. It may also be indicated by the fact that an unusually large proportion of the staff has specialized psychiatric or psychological training or that a large proportion of the patients are receiving psychopharmacological drugs.

(5) Is under the jurisdiction of the department.

b. More than 50 percent of all the patients in the facility have mental diseases that require inpatient treatment according to the patient's medical records.

c. A large proportion of the patients in the facility has been transferred from a state mental institution for continuing treatment of their mental disorders.

d. Independent review teams report a preponderance of mental illness in the diagnoses of the patients in the facility.

e. The average patient age is significantly lower than that of a typical nursing home.

f. Part or all of the facility consists of locked wards.

85.1(2) *Psychiatric hospitals serving persons under the age of 21.* A psychiatric hospital serving persons under the age of 21 shall be licensed pursuant rule 481—51.36(135B) or shall be licensed in another state as a hospital, shall be accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Children and Family Services, or by any other federally recognized accrediting organization that has comparable standards or surveys and is approved by the department of inspections, appeals, and licensing, and shall meet federal service requirements.

441—85.2(249A) Out-of-state placement. Placement in an out-of-state psychiatric hospital for acute care requires prior department approval and must be approved only if special services are not available in Iowa.

441—85.3(249A) Eligibility of persons under the age of 21.

85.3(1) *Age.* To be eligible for payment for the cost of care provided by a psychiatric hospital, the person shall be under 21 years of age. When treatment in the hospital is provided immediately preceding the person's twenty-first birthday, coverage continues to be available until the twenty-second birthday or until service is no longer required, whichever is earlier.

85.3(2) *Period of eligibility.* The person is considered to be an inpatient until unconditionally discharged. Coverage extends until the last day of the month of the discharge or the twenty-second birthday. While on inpatient status the eligible person is entitled to the full scope of Medicaid benefits.

85.3(3) *Certification of need for care.* For persons eligible for Medicaid prior to admission, the need for care shall be certified in accordance with 42 CFR 441.152 (as amended to August 1, 2024). A form prescribed by the department may be used to document these criteria.

a. For persons eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department.

The evaluation must be submitted to the facility on or prior to the date of the patient's admission.

b. When a person makes application for Medicaid subsequent to admission or has an application in process at the time of admission, a certification by the team responsible for the plan of care shall be provided within 14 days after admission and shall cover any period prior to application for which claims are to be made.

c. For emergency admissions, a certification shall be provided by the team responsible for the plan of care within 14 days after admission.

85.3(4) *Financial eligibility for persons under the age of 21.* To be eligible for payments for the cost of care provided by a psychiatric facility, persons under the age of 21 must be eligible under one of the coverage groups listed in 441—Chapter 75.

441—85.4(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by an institution for mental disease, persons must be aged 65 or over and be eligible under one of the coverage groups listed in 441—Chapter 75.

441—85.5(249A) Client participation. The resident is not liable to pay client participation toward the cost of care, and no client participation amount shall be deducted from the state payment to the hospital.

441—85.6(249A) Responsibilities of hospitals.

85.6(1) *Medical record requirements.* The medical records maintained by the psychiatric hospital shall permit determination of the degree and intensity of the treatment provided to persons who are furnished services in the hospital.

a. Development of assessment and diagnostic data. Medical records shall stress the psychiatric components of the record, including history of findings and treatment provided for the psychiatric condition for which the patient is hospitalized.

(1) The identification data shall include the patient's legal status.

(2) A provisional or admitting diagnosis shall be made on every patient at the time of admission, and shall include the diagnoses of intercurrent diseases as well as the psychiatric diagnoses.

(3) The reasons for admission shall be clearly documented as stated by the patient or others significantly involved.

(4) The social service records, including reports of interviews with patients, family members, and others, shall provide an assessment of home plans and family attitudes and community resource contacts, as well as a social history.

(5) When indicated, a complete neurological examination shall be recorded at the time of the admission physical examination.

b. Psychiatric evaluation. Each patient shall receive a psychiatric evaluation that shall:

(1) Be completed within 60 hours of admission.

(2) Include a medical history.

(3) Contain a record of mental status.

(4) Note the onset of illness and the circumstances leading to admission.

(5) Describe attitudes and behavior.

(6) Estimate intellectual functioning, memory functioning, and orientation.

(7) Include an inventory of the patient's assets in descriptive, not interpretive, fashion.

c. Treatment plan.

(1) Each patient shall have an individual comprehensive treatment plan that shall be based on an inventory of the patient's strengths and disabilities. The written plan shall include a substantiated diagnosis, short-term and long-range goals, the specific treatment modalities utilized, the responsibilities of each member of the treatment team, and adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out.

(2) The treatment received by the patient shall be documented in a way to ensure that all active therapeutic efforts are included.

d. Recording progress. Progress notes shall be recorded by the doctor of medicine or osteopathy responsible for the care of the patient, nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. The frequency of progress notes is determined by the condition of the patient but shall be recorded at least weekly for the first two months and at least once a month thereafter and shall contain recommendations for revisions in the treatment plan as indicated, as well as a precise assessment of the patient's progress in accordance with the original or revised treatment plan.

e. Discharge planning and discharge summary. The record of each patient who has been discharged shall have a discharge summary that includes a recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up or aftercare, as well as a brief summary of the patient's condition on discharge.

f. The facility shall obtain a professional review organization (PRO) determination that the person requires acute psychiatric care when a person applying or eligible for Medicaid enters the facility, returns from an acute care general hospital, or enters the facility after 30 consecutive days of visitation.

85.6(2) *Fiscal records.*

a. A case activity report shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized in a general hospital, leaves for visitation, or is discharged from the facility.

b. The facility shall bill after each calendar month for the previous month's services.

85.6(3) *Additional requirements.* Additional requirements are mandated for persons under the age of 21.

a. Active treatment. Inpatient psychiatric services shall involve active treatment in accordance with 42 CFR 441.154 (as amended to August 1, 2024).

b. Individual plan of care. An individual plan of care shall be developed and implemented for each recipient in accordance with 42 CFR 441.155 (as amended to August 1, 2024).

c. Interdisciplinary team. The individual plan of care shall be developed by an interdisciplinary team of physicians and other personnel who are employed by the facility or who provide services to patients in the facility in accordance with 42 CFR 441.156 (as amended to August 1, 2024).

441—85.7(249A) Psychiatric hospital reimbursement.

85.7(1) *Reimbursement formula.* Acute care in psychiatric hospitals will be reimbursed on a per diem rate based on Medicare principles.

a. The reimbursement principles follow and comply with the retrospective Principles of Medicare reimbursement found in Title 18 of the Social Security Act and amendments to that Act as amended to August 1, 2024.

b. Allowable costs are those defined as allowable in 42 CFR, Subpart A, Sections 413.5 and 413.9, as amended to August 1, 2024, and 42 CFR 447.250 as amended to August 1, 2024. Only those costs are considered in calculating the Medicaid inpatient reimbursement.

c. Medicare and Medicaid principles of reimbursement require hospitals to be paid at the lower of customary charges or reasonable cost and to adhere to all Medicare cost principles in the calculation of the facility rates.

d. Payment for inpatient hospital care for recipients for whom the PRO has determined that the level of care that is medically necessary is only that of skilled care or nursing care will be made at a rate equal to the statewide average Medicaid skilled nursing facility rate or the average state nursing facility rate. Periodic PRO determinations of the need for continuing care are also required.

e. Each participating Medicaid provider shall file a CMS 2552 Medicare Cost Report or a substitute accepted by the Centers for Medicare and Medicaid Services (CMS). In addition, supplemental information sheets are furnished to all Medicaid providers to be filed with the annual cost report. This report must be filed with the department within 150 days after the close of the hospital's fiscal year.

f. Compensation for a disproportionate share of indigent patients is determined as described in 441—subrule 79.1(5).

g. Medicaid reimbursement will be reduced by any payments from a third party toward the cost of a patient's care.

85.7(2) *Medical necessity.* The medical necessity of admission and continued stay will be determined by the PRO. Payment shall not be made for admissions that are determined not to be medically necessary nor will payment be approved for stays beyond the time at which inpatient specialized hospital care at the acute level has been determined not to be medically necessary.

85.7(3) *Reserve bed day payment.* No reserve bed day payments are made to acute care psychiatric hospitals.

85.7(4) *Outpatient services.* No coverage is available for outpatient psychiatric hospital services.

These rules are intended to implement Iowa Code section 249A.4.

441—85.8(249A,81GA,ch167) Eligibility of persons aged 21 through 64.

85.8(1) *Facility.* Acute care in a psychiatric hospital is covered for persons aged 21 through 64 only at the state mental health institutes at Cherokee and Independence.

85.8(2) *Basis of eligibility.* To be eligible for payment for the cost of care provided by one of the covered facilities, a person aged 21 through 64 must be eligible for one of the coverage groups listed in 441—Chapter 75.

85.8(3) *Period of eligibility.* A person is considered to be an inpatient until unconditionally discharged. Coverage extends until the last day of the month of discharge.

85.8(4) *Extent of eligibility.* While on inpatient status, a person eligible under a coverage group listed in rule 441—75.1(249A) is entitled to the full scope of Medicaid benefits.

441—85.9(249A) Psychiatric medical institutions for children—conditions for participation. Psychiatric medical institutions for children will be issued a license by the department of inspections, appeals, and licensing under Iowa Code chapter 135H and will hold either a license from the department under Iowa Code section 237.3(2)*"a"*(3), or, for facilities that provide substance abuse treatment, a license from the department under Iowa Code section 125.13.

This rule is intended to implement Iowa Code sections 135H.4 and 249A.4.

441—85.10(249A) Eligibility of persons under the age of 21.

85.10(1) *Age.* To be eligible for payment for the cost of care provided by a psychiatric medical institution for children, the person shall be under 21 years of age. When treatment in the facility is provided immediately preceding the individual's twenty-first birthday, coverage continues to be available until the twenty-second birthday or until service is no longer required, whichever is earlier.

85.10(2) *Period of eligibility.* The person is considered to be an inpatient until unconditionally discharged. Coverage extends until the last day of the month of the discharge or the twenty-second birthday. While on inpatient status, the eligible individual is entitled to the full scope of Medicaid benefits.

85.10(3) *Certification for need for care.* For persons eligible for Medicaid prior to admission, the need for care shall be certified in accordance with 42 CFR 441.152 (as amended to August 1, 2024). A form prescribed by the department may be used to document these criteria.

a. For persons determined eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person's situation. If a social worker is a part of the team, the social worker may be from the county office of the department.

The evaluation will be submitted to the facility on or prior to the date of the patient's admission.

b. When a person makes application for Medicaid subsequent to admission or has an application in process at the time of admission, a certification by the team responsible for the plan of care shall be provided within 14 days after admission and shall cover any period prior to application for which claims are to be made.

c. For emergency admissions, a certification shall be provided by the team responsible for the plan of care within 14 days after admission.

85.10(4) *Financial eligibility for persons under the age of 21.* To be eligible for payments for the cost of care provided by psychiatric medical institutions, persons under the age of 21 shall be eligible under one of the coverage groups listed in 441—Chapter 75, except medically needy.

441—85.11(249A) Client participation. The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to 441—Chapter 75.

441—85.12(249A) Responsibilities of facilities.

85.12(1) *Medical record requirements.* The medical records maintained by psychiatric medical institutions for children shall permit determination of the degree and intensity of the treatment provided to persons who are furnished services in the facility.

a. Development of assessment and diagnostic data. Medical records shall stress the psychiatric components of the record, including history of findings and treatment provided for the psychiatric condition for which the patient is admitted.

(1) The identification data shall include the patient's legal status.

(2) A provisional or admitting diagnosis shall be made on every patient at the time of admission, and shall include the diagnoses of intercurrent diseases as well as the psychiatric diagnoses.

(3) The reasons for admission shall be clearly documented as stated by the patient or others significantly involved.

(4) The social service records, including reports of interviews with patients, family members, and others, shall provide an assessment of home plans and family attitudes and community resource contacts, as well as a social history.

(5) When indicated, a complete neurological examination shall be recorded at the time of the admission physical examination.

b. Psychiatric evaluation. Each patient shall receive a psychiatric evaluation that shall:

(1) Be completed within seven days of admission.

(2) Include a medical history.

(3) Contain a record of mental status.

(4) Note the onset of illness and the circumstances leading to admission.

(5) Describe attitudes and behavior.

(6) Estimate intellectual functioning, memory functioning, and orientation.

(7) Include an inventory of the patient's assets in descriptive, not interpretive, fashion.

c. Treatment plan.

(1) Each patient shall have an individual comprehensive treatment plan that shall be based on an inventory of the patient's strengths and disabilities. The written plan shall include a substantiated diagnosis, short-term and long-range goals, the specific treatment modalities utilized, the responsibilities of each member of the treatment team, and adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out.

(2) The treatment received by the patient shall be documented in a way to ensure that all active therapeutic efforts are included.

d. Recording progress. Progress notes shall be recorded by the doctor of medicine or osteopathy responsible for the care of the patient, nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. The frequency of progress notes is determined by the condition of the patient but shall be recorded at least weekly for the first two months and at least once a month thereafter and shall contain recommendations for revisions in the treatment plan as indicated, as well as precise assessment of the patient's progress in accordance with the original or revised treatment plan.

e. Discharge planning and discharge summary. The record of each patient who has been discharged shall have a discharge summary that includes a recapitulation of the patient's stay at the facility and recommendations from appropriate services concerning follow-up or aftercare, as well as a brief summary of the patient's condition on discharge.

f. The facility shall obtain a professional review organization (PRO) determination that the person requires psychiatric medical institution level of care when a person applying or eligible for Medicaid enters the facility, returns from an acute care hospital stay longer than 10 days, or enters the facility after 30 consecutive days of visitation. Periodic PRO determinations of the need for continuing care are also required.

85.12(2) *Fiscal records.*

a. A Case Activity Report shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

b. The facility shall bill after each calendar month for the previous month's services.

85.12(3) *Additional requirements.* Additional requirements are mandated for persons under the age of 21.

a. Active treatment. Inpatient psychiatric services shall involve active treatment in accordance with 42 CFR 441.154 (as amended to August 1, 2024).

b. Individual plan of care. An individual plan of care shall be developed and implemented for each recipient in accordance with 42 CFR 441.155 (as amended to August 1, 2024).

c. Interdisciplinary team. The individual plan of care shall be developed by an interdisciplinary team of physicians and other personnel who are employed by the facility or who provide services to patients in the facility in accordance with 42 CFR 441.156 (as amended to August 1, 2024).

441—85.13(249A) Outpatient day treatment for persons aged 20 or under. Payment to a psychiatric medical institution for children will be approved for day treatment services for persons aged 20 or under if the psychiatric medical institution for children is certified by the department of inspections, appeals, and licensing for day treatment services and the services are provided on the licensed premises of the psychiatric medical institution for children.

EXCEPTION: Field trips away from the premises are a covered service when the trip is therapeutic and integrated into the day treatment program's description and milieu plan. All conditions for the day treatment program for persons aged 20 or under as outlined in 441—subrule 78.16(7) for community mental health centers shall apply to psychiatric medical institutions for children.

These rules are intended to implement Iowa Code section 249A.4.

441—85.14(249A) Conditions of participation. A nursing facility for persons with mental illness shall be licensed pursuant to 481—Chapter 65, or, if the facility is a distinct part of a hospital, pursuant to rule 481—51.33(135B). A distinct part of a general hospital may be considered a psychiatric institution. In addition, the facility shall be certified to participate in the Iowa Medicaid program as a nursing facility pursuant to 441—Chapter 81 and shall have 16 beds or more. The facility shall also meet the criteria set forth in subrule 85.1(1).

441—85.15(249A) Out-of-state placement. Placement in out-of-state nursing facilities for persons with mental illness is not payable.

441—85.16(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by nursing facilities for persons with mental illness, persons must be aged 65 or over and be eligible under one of the coverage groups listed in 441—Chapter 75, except for medically needy.

441—85.17(249A) Client participation. The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to rule 441—75.16(249A).

441—85.18(249A) Responsibilities of nursing facility.

85.18(1) *Medical record requirements.* The facility shall obtain a PRO determination that a person requires psychiatric care when the person applying or eligible for Medicaid enters the facility, returns from an acute care hospital stay longer than 10 days, or enters the facility after 30 consecutive days of visitation. Periodic PRO determinations of the need for continuing care are also required.

85.18(2) *Fiscal records.*

a. A Case Activity Report shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

b. The facility shall bill after each calendar month for the previous month's services.

441—85.19(249A) Policies governing reimbursement. Cost reporting, reserve bed day payment, and reimbursement shall be the same for nursing facilities for persons with mental illness as for nursing facilities as set forth in 441—Chapter 81.

441—85.20(249A) State-funded personal needs supplement. A Medicaid member living in an intermediate care facility for persons with mental illness who has countable income for purposes of rule 441—75.16(249A) of less than $50 per month will receive a state-funded payment from the department for the difference between that countable income and $50 if the legislature has appropriated funding specifically for this purpose. This payment shall not be considered a benefit under Title XIX of the Social Security Act (as amended to August 1, 2024).

This rule is intended to implement Iowa Code section 249A.30A.

These rules are intended to implement Iowa Code section 249A.4.

ARC 8571C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to healthy and well kids in Iowa and providing an opportunity for public comment

The Health and Human Services Department hereby proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (hawki) Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 514I.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 514I and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10, as well as implementing, in part, 2024 Iowa Acts, Senate File 2385. This proposed rulemaking serves to implement Iowa's hawki program by establishing rules for:

- Eligibility, including presumptive eligibility;
- Qualifying standards for participating insurers;
- Cost-sharing;
- Benefits included;
- Procedures and circumstances for disenrollment;
- Data collection and use; and
- Any other items necessary to implement Iowa Code chapter 514I.

It also removes references to the hawki Board and the hawki Advisory Committee, which were eliminated by 2024 Iowa Acts, Senate File 2385.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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

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January 15, 2025 2 to 3 p.m.	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u
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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 441—Chapter 86 and adopt the following **new** chapter in lieu thereof:

CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWKI) PROGRAM

441—86.1(514I) Definitions.

"Administrative error" means an action of the department that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the department.
6. Failure to request essential verification necessary to make an accurate eligibility determination.

7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.

8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

"Applicant" means anyone in the household, including all adults and children under the age of 19 who are counted in the hawki family size according to the modified adjusted gross income methodology and who are listed on the application or renewal form.

"Capitation rate" means the same as set forth in rule 441—88.1(249A).

"Client error" means any action or inaction of the enrollee or the enrollee's representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because at least one of the following occurred:

1. The enrollee or the enrollee's representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or

2. The enrollee or the enrollee's representative failed to timely report a change as defined in rule 441—86.10(514I).

"Contract" means the contract between the department and the participating health or dental plan for the provision of medical or dental services to hawki enrollees for whom the participating health or dental plans assume risk.

"Cost sharing" means the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act, as amended to August 1, 2024, and Iowa Code section 514I.10.

"Countable income" means earned and unearned income of the family according to the modified adjusted gross income methodology.

"Covered services" means all or a part of those medical and dental services set forth in rule 441—86.14(514I).

"Dentist" means a person who is licensed to practice dentistry.

"Eligible child" means an individual who meets the criteria for participation in the hawki program as set forth in rule 441—86.2(514I).

"Emergency dental condition" means an oral condition that occurs suddenly and creates an urgent need for professional consultation or treatment. Emergency conditions may include hemorrhage, infection, pain, broken teeth, knocked-out teeth, or other trauma.

"Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,

2. Serious impairment to bodily functions, or

3. Serious dysfunction of any bodily organ or part.

"Emergency services" means, with respect to an individual enrolled with a plan, covered inpatient and outpatient services that are furnished by a provider qualified to furnish these services and that are needed to evaluate and stabilize an emergency medical or dental condition.

"Enrollee" means a child who has been determined eligible for the program and who has been enrolled with a participating health plan.

"Enrollment broker" means the entity the department uses to enroll eligible children with a managed care organization. The enrollment broker must be conflict-free and meet all applicable requirements of state and federal law.

"Family" means anyone in the household, including all adults and children under the age of 19 who are counted in the hawki family size according to the modified adjusted gross income methodology.

"Federal poverty level" means the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

"Good cause" means the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee's family.

2. There was a family emergency or household disaster, such as a fire, flood, or tornado.

3. There was a reason beyond the enrollee's control.

4. There was a failure to receive the department's request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

"Hawki program" or *"program"* means the healthy and well kids in Iowa program implemented in this chapter to provide health and dental care coverage to eligible children.

"Health insurance coverage" means health insurance coverage as defined in 45 CFR Section 144.103 as amended to August 1, 2024.

"Health Insurance Marketplace" or *"Exchange"* means the entity authorized under 42 U.S.C. Section 18031(d)(4)(F) (as amended to August 1, 2024) to evaluate and determine eligibility of applicants for Medicaid, the Children's Health Insurance Program (CHIP), and other health programs.

"Initial application" means the first program application or a subsequent application that is not a renewal.

"Institution for mental diseases" means the same as defined in 42 CFR Section 435.1010 as amended to August 1, 2024.

"Medical Assistance Advisory Council" or *"MAAC"* means the advisory body authorized by Iowa Code section 249A.4.

"Modified adjusted gross income" means the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603 as amended to August 1, 2024.

"Public institution" means the same as defined in 42 CFR Section 435.1010 as amended to August 1, 2024.

"Participating dental plan" means any entity licensed by the division of insurance of the department of commerce to provide dental insurance in Iowa that has contracted with the department to provide dental insurance coverage to eligible children under this chapter.

"Participating health plan" or *"PHP"* means any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

"Passive enrollment process" means the process by which the department assigns a child to a participating health or dental plan and which seeks to preserve existing provider-enrollee relationships, if possible. In the absence of existing relationships, the process ensures that members are equally distributed among all available health or dental plans.

"Physician" means the same as defined in Iowa Code section 135.1(4).

"Provider" means an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical or dental care or services to an enrollee pursuant to the hawki program.

"Renewal" means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

"Supplemental dental-only coverage" means dental care coverage provided to a child who meets the eligibility requirements for the hawki program except that the child is covered by health insurance through an individual or group health plan.

441—86.2(514I) Eligibility factors. The decision with respect to eligibility will be based primarily on electronic data matches and information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the hawki program:

86.2(1) *Age.* The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child's nineteenth birthday.

86.2(2) *Income.*

a. Countable income. In determining initial and ongoing eligibility for the hawki program, countable income shall not exceed 302 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

b. Verification of income. Income shall be verified through electronic data matches when possible or otherwise verified using the best information available.

(1) Pay stubs, tip records, tax records and employers' statements are acceptable forms of verification of earned income.

(2) If self-employment income cannot be verified through electronic means, business records or income tax returns from the previous year can be used if they are representative of anticipated earnings. If business records or tax returns from the previous year are not representative of anticipated earnings, an average of the business records or tax returns from the previous two or three years may be used if that average is representative of anticipated earnings.

c. Changes in income. Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child's eligibility to participate in the hawki program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(514I).

86.2(3) *Family size.* For purposes of establishing initial and ongoing eligibility under the hawki program, the family size shall be determined according to the modified adjusted gross income methodology.

86.2(4) *Uninsured status.* The child must be uninsured as outlined in 42 CFR 457 as amended to August 1, 2024.

86.2(5) *Ineligibility for Medicaid.* The child shall not be receiving Medicaid or eligible to receive Medicaid except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

86.2(6) *Iowa residency.* Residency in Iowa is a condition of eligibility for the hawki program. Residency shall be established in accordance with rule 441—75.10(249A).

86.2(7) *Citizenship and immigration status.* To be eligible for the hawki program, the child shall be a citizen or lawfully admitted immigrant. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted immigrant child is eligible to participate in the hawki program.

a. The citizenship or immigration status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

b. As a condition of eligibility for hawki:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration.

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or immigration status and for providing any required proof of the status.

c. Except as provided in 441—paragraph 75.11(2)*"f,"* applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7)*"b"* shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2) *"d,""e,""g,""h,"* and *"i."*

d. An applicant or enrollee shall have a reasonable opportunity period to obtain and provide proof of citizenship and nationality in accordance with 441—paragraph 75.11(2)*"c."*

e. Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the hawki program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee unless the state contributes only a nominal amount toward the cost of dependent coverage. "Nominal amount" means $10 or less per month.

86.2(9) *Inmates of public institutions.* The child shall not be an inmate of a public institution as defined at 42 CFR Section 435.1010 as amended to August 1, 2024.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1010 as amended to August 1, 2024.

86.2(11) *Furnishing a social security number.* As a condition of eligibility and in accordance with rule 441—75.7(249A), a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under hawki is being requested or received.

441—86.3(514I) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply for the hawki program in accordance with rule 441—76.1(249A).

86.3(2) *Place of filing.* An application for the hawki program may be filed with the department through an Internet website, by telephone, through other electronic means, or through an exchange, disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided.

86.3(3) *Right to withdraw application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application will be documented, and the applicant will be sent a notice of decision confirming the request.

86.3(4) *Application not required.*

a. An application will not be required when a child becomes ineligible for Medicaid.

b. A new application will not be required when an eligible child is added to an existing hawki eligible group.

c. A new application will not be required when a child moves between supplemental dental-only coverage as specified in rule 441—86.20(514I) and full medical and dental coverage.

86.3(5) *Information and verification procedure.* The eligibility decision will be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee and verified through electronic data matches whenever possible.

a. The applicant, enrollee, or person acting on behalf of the applicant or enrollee will be notified in writing of additional information or verification that is required to establish eligibility. The notice may be provided personally, by U.S. mail, by email, or by facsimile.

b. Failure to supply the information or verification or refusal to authorize the department to secure the information will be a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization will be acted upon as though it had been provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee will have 10 working days to supply the information or verification requested. The due date may be extended for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(6) *Time limit for decision.* Decisions regarding the applicant's eligibility to participate in the hawki program will be made within 45 working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed for reasons beyond the control of the department. Day one of the 45-day period starts the first working day following the date of receipt of a completed application and all necessary information and verification.

86.3(7) *Applicant cooperation.* An applicant must cooperate with the department in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

86.3(8) *Waiting lists.* When the department has established that all the funds appropriated for this program are obligated, all subsequent applications for hawki coverage will be denied unless Medicaid eligibility exists.

a. The department will mail a notice of decision to the applicant that states:

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The applicant does not meet eligibility requirements, in which case the applicant will not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, it must be established that the child is not eligible for Medicaid.

c. Applicants will be placed on the waiting list on the basis of the date an identifiable application form specified in rule 441—76.1(249A) is received.

(1) In the event that more than one application is received on the same day, applicants will be placed on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) Any subsequent ties will be determined by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, applicants will be selected from the waiting list based on the order in which their names appear on the list and will be notified of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, the applicant's name will be deleted from the waiting list and the next applicant on the waiting list will be contacted.

441—86.4(514I) Coordination with Medicaid.

86.4(1) *Hawki applicant eligible for Medicaid.* At the time of initial application, if it is determined the child is eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child will be enrolled in the Medicaid program.

86.4(2) *Hawki enrollee eligible for Medicaid.* At the time of the annual review, if the child is determined eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child will be enrolled in Medicaid effective the first day following the expiration of the 12-month hawki enrollment period.

86.4(3) *Medicaid member becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spend down under the medically needy program at 441—subrule 75.1(35), the child will be enrolled in the hawki program if otherwise eligible.

441—86.5(514I) Effective date of coverage.

86.5(1) *Initial application.* Coverage for a child who is determined eligible for the hawki program on the basis of an initial application for either hawki or Medicaid will be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed. However, when the child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

86.5(2) *Referrals from Medicaid.*

a. Cancellation of Medicaid. Coverage for children who are determined eligible for the hawki program due to cancellation of Medicaid benefits will be effective the first day of the month after Medicaid eligibility is lost in order to ensure that there is no break in coverage.

b. If the child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology, the child may be covered under the hawki program for up to 12 months following the loss of Medicaid eligibility, regardless of the presence of other health insurance coverage.

86.5(3) *Annual renewals.* Coverage for children who are determined eligible for the hawki program on the basis of an annual renewal will be effective the first day of the month following the month in which the previous enrollment period ended.

86.5(4) *Children added to an existing hawki enrollment period.* Coverage for children who are determined eligible for the hawki program on the basis of a request from the family to add the child to an existing enrollment period will be effective the first day of the month following the month in which the request was made.

441—86.6(514I) Selection of a plan. Upon the child's eligibility effective date, the child will be assigned to a health or dental plan using the department's passive enrollment process. The enrollee may change plans only at the time of the annual review unless the provisions of paragraph 86.6(1)*"a"* or subrule 86.6(2) apply.

86.6(1) *Period of enrollment.* Once enrolled in a health or dental plan, the child will remain enrolled in the health or dental plan for a period of 12 months.

a. Exceptions. A child may be enrolled in a plan for less than 12 months if:

(1) The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the health or dental plan and subsequently reapplies before the end of the original 12-month enrollment period, the child will be enrolled in the health or dental plan from which the child was originally disenrolled.

(2) The child is added to an existing enrollment. When a family requests to add an eligible child, the child will be enrolled for the months remaining in the current enrollment period.

(3) A request to change plans is accepted in accordance with paragraph 86.6(1)*"b."*

b. Request to change plan. An enrollee may ask to change the health or dental plan either verbally or in writing to the enrollment broker:

(1) Within 90 days following the date of the enrollee's initial enrollment with the health or dental plan for any reason.

(2) At any time for cause. "Cause" as defined in 42 CFR 438.56(d)(2) as amended to August 1, 2024, includes but is not limited to:

1. The enrollee moves out of the plan's service area.
2. Because of moral or religious objections, the plan does not cover the services the enrollee seeks.
3. The enrollee needs related services (for example, a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the enrollee's primary care provider or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk.
4. Other reasons including but not limited to poor quality of care, lack of access to services covered under the contract, or lack of access to providers experienced in dealing with the enrollee's health care needs.

All approved changes shall be made prospectively and shall be effective no later than the first day of the second month beginning after the date on which the change request is received.

86.6(2) *Child moves from the service area.* The child may be disenrolled from the health or dental plan when the child moves to an area of the state in which the health or dental plan does not have a provider network established. If the child is disenrolled, the child will be enrolled in a participating health or dental plan in the new location. The period of enrollment will be the number of months remaining in the original certification period.

86.6(3) *Change at annual review.* If more than one health or dental plan is available at the time of the annual review of eligibility, the family may designate another plan either verbally or in writing to the enrollment broker. The child will remain enrolled in the current health or dental plan if the family does not notify the enrollment broker of a new health or dental plan choice by the end of the current 12-month enrollment period.

441—86.7(514I) Cancellation. The child's eligibility for the hawki program shall be canceled before the end of the 12-month enrollment period for any of the following:

86.7(1) *Age.* The child shall be canceled from the hawki program as of the first day of the month following the month in which the child attained the age of 19.

86.7(2) *Iowa residence abandoned.* The child shall be canceled from the program as of the first day of the month following the month in which the child relocated to another state. Eligibility shall not be canceled when the child is temporarily absent from the state in accordance with the provisions of 441—subrule 75.10(2).

86.7(3) *Eligible for Medicaid.* The child shall be canceled from the program as of the first day of the month following the month in which Medicaid eligibility is obtained. If there are months during which the child is covered by both the Medicaid and hawki programs, the hawki program shall be the primary payor and Medicaid shall be the payor of last resort.

86.7(4) *Enrolled in other health insurance coverage.* The child shall be canceled from the program as of the first day of the month following the month in which the department is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the hawki program, the other insurance plan shall be the primary payor and hawki shall be the payor of last resort.

86.7(5) *Admission to a public institution.* The child shall be canceled from the program if the child is in a public institution at the time of the annual review.

86.7(6) *Admission to an institution for mental disease.* The child shall be canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(7) *Employment with the state of Iowa.* The child shall be canceled from the hawki program as of the first day of the month in which the child's parent became eligible to participate in a health or dental plan available to state of Iowa employees.

441—86.8(514I) Premiums and copayments.

86.8(1) *Income considered.* The income considered in determining the premium amount will be the family's countable income using the modified adjusted gross income methodology.

86.8(2) *Premium amount.* Except as specified for supplemental dental-only coverage in subrule 86.20(3), premiums under the hawki program will be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaska Native; or

(2) The family's countable income is less than 181 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds 181 percent of the federal poverty level for a family of the same size but does not exceed 242 percent of the federal poverty level for a family of that size, the premium is $10 per child per month with a $20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds 243 percent of the federal poverty level for a family of the same size, the premium is $20 per child per month with a $40 monthly maximum per family.

86.8(3) *Due date.*

a. Payment upon initial application. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the fifth day of the second month following the month of decision.

b. Payment upon renewal.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the fifth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) When the premium is received, the department will notify the health and dental plans of the enrollment.

c. Subsequent payments. All subsequent premiums are due by the fifth day of each month for the next month's coverage. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

d. Holiday or weekend. When the premium due date falls on a holiday or weekend, the premium shall be due on the first business day following the due date.

86.8(4) *Method of premium payment.* Premiums may be submitted in the form of cash, personal checks, electronic funds transfers (EFT), or other methods established by the department.

86.8(5) *Copayment.* There will be a $25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition. A copayment will not be imposed when family income is less than 181 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaska Native.

441—86.9(514I) Annual reviews of eligibility. All eligibility factors will be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" will be the first month in which coverage is provided.

86.9(1) *Review form.* The department will send the family a prepopulated review form on which the answers, except for income, have been completed based on the information on file. The family shall review the completed information for accuracy and fill in the income section of the form. If family income cannot be verified through electronic data matches, the family shall be required to provide verification of current income. The family shall sign and date the form attesting to its accuracy as part of the review process.

86.9(2) *Failure to provide information.* The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process. If the completed review form and any information necessary to establish continued eligibility are received within 14 calendar days of the end of an enrollment period, the review form and information will be acted upon as though they had been received timely. If the fourteenth calendar day falls on a weekend or state holiday, the enrollee shall have until the next business day to provide the review form and any information necessary to establish continued eligibility.

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported timely to the department. "Timely" shall mean no later than ten working days after the change occurred. The ten working-day period begins the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change unless the child is emancipated, married, or otherwise in an independent living situation, in which case the child shall be responsible for reporting the change.

86.10(1) *Iowa residence is abandoned.* The abandonment of Iowa residence shall be reported following the move from the state.

86.10(2) *Other insurance coverage.* Enrollment of the child in other health insurance coverage shall be reported.

86.10(3) *Decrease in income.* If the family reports a decrease in income, the department will ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(4) *Information reported by a third party.* Information reported by a third party will not be acted upon until the information is verified in accordance with subrule 86.3(7).

86.10(5) *Cooperation.* The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

86.10(6) *Effective date of change in eligibility.*

a. When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

b. When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

c. When an anticipated change in circumstances is reported before the change occurs, no action will be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

441—86.11(514I) Notice requirements. The applicant will be provided an adequate written notice of the decision regarding the applicant's eligibility for the hawki program. The enrollee will be notified in writing of any decision that adversely affects the enrollee's eligibility or the amount of benefits. The notice will be timely and adequate as provided in rule 441—16.3(17A).

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision to reduce, cancel or deny participation in the hawki program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

441—86.13(514I) Covered services. The benefits provided under the hawki program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act as amended to August 1, 2024.

86.13(1) *Required medical services.* The participating health plan shall cover at a minimum the following medically necessary services:

a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).

b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).

c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).

d. Ambulance services.

e. Physical therapy.

f. Nursing care services (including skilled nursing facility services).

g. Speech therapy.

h. Durable medical equipment.

i. Home health care.

j. Hospice services.

k. Prescription drugs.

l. Hearing services.

m. Vision services (including corrective lenses).

n. Translation and interpreter services as specified pursuant to 42 U.S.C. Section 1397ee(a)(1) as amended to August 1, 2024.

o. Chiropractic services.

p. Occupational therapy.

86.13(2) *Abortion.* Payment for abortion shall only be made under the following circumstances:

a. The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.

b. The pregnancy was the result of an act of rape or incest.

86.13(3) *Required dental services.* Participating dental plans shall cover at a minimum the following necessary dental services:

a. Diagnostic and preventive services.

b. Routine and restorative services.

c. Endodontic services.
d. Periodontal services.
e. Cast restorations.
f. Prosthetics.

441—86.14(514I) Participating health and dental plans.

86.14(1) *Licensure.* The participating health or dental plan must:

a. Be licensed by the division of insurance of the department of commerce to provide health or dental care coverage in Iowa; or

b. Be an organized delivery system licensed by the director to provide health or dental care coverage.

86.14(2) *Services.* The participating health or dental plan shall provide coverage for the services specified in rule 441—86.13(514I) to all children determined eligible.

a. The participating health or dental plan shall make services it provides to hawki enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the health or dental plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating health or dental plan does not provide statewide coverage, the health or dental plan shall participate in every county in which it is licensed and in which a provider network has been established.

86.14(3) *Provider network.* The participating health or dental plan shall establish a network of providers. Providers contracting with the participating health or dental plan shall comply with hawki requirements, which shall include collecting copayments, if applicable.

86.14(4) *Identification cards.* Identification cards shall be issued by the participating health or dental plan to the enrollees for use in securing covered services.

86.14(5) *Marketing.*

a. Participating health and dental plans may not distribute any marketing materials directly or through an agent or independent contractor.

b. All marketing materials require prior approval from the department.

c. At a minimum, participating health and dental plans must provide the following material in writing or electronically:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the hawki enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All health and dental plan literature and brochures shall be available in English and any other language when enrollment in the health or dental plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the health or dental plan.

d. All health and dental plan literature and brochures shall be approved by the department.

e. The participating health and dental plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other "cold-call" marketing.

f. The participating health or dental plan may make marketing presentations at the discretion of the department.

86.14(6) *Appeal process.* The participating health or dental plan shall have a written procedure by which enrollees may appeal issues concerning the health or dental care services provided through providers contracted with the health or dental plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames that ensure that appeals be resolved within 45 days, except for appeals that involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician, dentist, or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal, which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals that is made available to the department at the department's request.

i. Ensures that the participating health or dental plan's written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health or dental plan make quarterly reports to the department summarizing appeals and resolutions.

86.14(7) *Records and reports.* The participating health and dental plans shall maintain records and reports as follows:

a. The health or dental plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the health or dental plan or subcontractor of the health or dental plan, as appropriate, must maintain a medical or dental records system that:

(1) Identifies each medical or dental record by hawki enrollee identification number.

(2) Maintains a complete medical or dental record for each enrollee.

(3) Provides a specific medical or dental record on demand.

(4) Meets state and federal reporting requirements applicable to the hawki program.

(5) Maintains the confidentiality of medical or dental records information and releases the information only in accordance with established policy below:

1. All medical and dental records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, other practitioners, or facilities that are providing services to enrollees under a subcontract with the health or dental plan. This provision also applies to specialty providers who are retained by the health or dental plan to provide services that are infrequently used, which provide a support system service to the operation of the health or dental plan, or that are of an unusual nature. This provision is also intended to waive the need for written consent for department staff assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the health or dental plan itself, and other subcontractors that require information as described under numbered paragraph "5" below.

3. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, or facilities providing emergency care pursuant to paragraph 86.14(2)*"b."*

4. Written consent is required for the transmission of the medical or dental records information of a former enrollee to any physician or dentist not connected with the health or dental plan.

5. The extent of medical or dental records information to be released in each instance shall be based upon a test of medical or dental necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical and dental records maintained by subcontractors shall meet the requirements of this rule except that written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each health or dental plan shall provide at a minimum reports and plan information to the department as follows:

(1) A list of providers of services under the plan.

(2) Encounter data on a monthly basis as required by the department.

(3) Other information as directed by the department.

c. Each health or dental plan shall at a minimum provide reports and health or dental plan information to the department as follows:

(1) Information regarding the plan's appeal process.

(2) A plan for a health improvement program.

(3) Periodic financial, utilization and statistical reports as required by the department.

(4) Time-specific reports that define activity for child health care, appeals and other designated activities that may, at the department's discretion, vary among plans, depending on the services covered or other differences.

(5) Other information as directed by the department.

86.14(8) *Payment to the participating health or dental plan.*

a. In consideration for all services rendered by a health or dental plan, the health or dental plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical or dental care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the health or dental plan for risks assumed under the current or any previous contract. The health or dental plan accepts the rate as payment in full for the contracted services. Any savings realized by the health or dental plan due to lower utilization from a less frequent incidence of health or dental problems among the enrolled population shall be wholly retained by the health or dental plan.

d. If an enrollee has third-party coverage or a responsible party other than the hawki program available for purposes of payment for medical or dental expenses, it is the right and responsibility of the health or dental plan to investigate these third-party resources and attempt to obtain payment. The health or dental plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

441—86.15(514I) Use of donations to the hawki program. If an individual or other entity makes a monetary donation to the hawki program, the department will deposit the donation into the hawki trust fund. The department will track all donations separately and will not commingle the donations with other moneys in the trust fund. The department shall report the receipt of all donations to MAAC.

86.15(1) If the donor specifically identifies the purpose of the donation, regardless of the amount, the donation shall be used as specified by the donor as long as the identified purpose is permissible under state and federal law.

86.15(2) If the donation is less than $5,000 and the donor does not specifically identify how it is to be used, the department will use the moneys in the following order:

a. For the direct benefit of enrollees (e.g., premium payments).

b. For outreach activities.

c. For other purposes as determined by MAAC.

86.15(3) If the donation is more than $5,000 and the donor does not specify how the funds are to be used, MAAC will determine how the funds are to be used.

441—86.16(514I) Recovery.

86.16(1) *Amount subject to recovery from the enrollee or representative.* The department may recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a health or dental plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health or dental plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health or dental plan to a provider of medical or dental services are not subject to recovery from the enrollee regardless of the cause of the error.

86.16(2) *Notification.* The enrollee will be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

a. The name of the person for whom funds were incorrectly paid;

b. The period during which the funds were incorrectly paid;

c. The amount subject to recovery; and

d. The reason for the incorrect payment.

86.16(3) *Recovery.*

a. Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee's representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

b. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

c. Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

86.16(4) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

441—86.17(514I) Supplemental dental-only coverage.

86.17(1) *Eligibility.* Unless otherwise specified, eligibility for supplemental dental-only coverage shall be determined in accordance with the provisions of rules 441—86.2(514I) through 441—86.12(514I) and 441—86.17(514I).

86.17(2) *Premiums.* Premiums for participation in the supplemental dental-only plan are assessed as follows:

a. No premium is charged to families whose countable income is less than or equal to 167 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology or to an eligible child who is an American Indian or Alaska Native.

b. If the family's countable income is equal to or exceeds 168 percent of the federal poverty level but does not exceed 203 percent of the federal poverty level for a family of the same size, the premium is $5 per child per month with a $10 monthly maximum per family.

c. If the family's countable income exceeds 203 percent of the federal poverty level but does not exceed 254 percent of the federal poverty level for a family of the same size, the premium is $10 per child per month with a $15 monthly maximum per family.

d. If the family's countable income exceeds 254 percent of the federal poverty level for a family of the same size, the premium is $15 per child per month with a $20 monthly maximum per family.

e. If the family includes uninsured children who are eligible for both medical and dental coverage under hawki and insured children who are eligible only for dental coverage, the premium will be assessed as follows:

(1) The total premium will be no more than the amount that the family would pay if all the children were eligible for both medical and dental coverage.

(2) If the family has one child eligible for both medical and dental coverage and one child eligible for dental coverage only, the premium will be the total of the health and dental premium for one child and the dental premium for one child.

(3) If the family has two or more children eligible for both medical and dental coverage, no additional premium shall be assessed for dental-only coverage for the children who do not qualify for medical coverage under hawki because they are covered by health insurance.

f. The provisions of subrules 86.8(3) through 86.8(6) apply to premiums specified in this subrule.

86.17(3) *Waiting lists.* Before the provisions of subrule 86.3(10) are implemented, all children enrolled in supplemental dental-only coverage shall be disenrolled from the program.

These rules are intended to implement Iowa Code chapter 514I and 2024 Iowa Acts, Senate File 2385.

ARC 8572C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to specialized managed care programs and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 88, "Specialized Managed Care Programs," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

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

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter provides for specialized programs of managed care, within the Iowa medical assistance program but outside of managed care pursuant to 441—Chapter 73. Managed care providers under these programs are not required to comply with 441—Chapter 73.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 2 to 3 p.m.	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u
January 21, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 299 255 416 174 Passcode: ebdJ6y

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 441—Chapter 88 and adopt the following **new** chapter in lieu thereof:

CHAPTER 88
SPECIALIZED MANAGED CARE PROGRAMS

441—88.1(249A) Definitions.

"Alternate PACE service site" means a location outside a primary or alternate PACE center in which one or more PACE services are offered to PACE enrollees.

"Capitation rate" means the fee the department pays monthly to a PHP for each enrolled recipient for the provision of covered medical services whether or not the enrolled recipient received services during the month for which the fee is intended.

"CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

"Contract" means a contract between the department and a PHP for the provision of medical services to enrolled Medicaid recipients for whom the PHP assumes a risk as defined in the contract.

"Emergency service" means medical services rendered under unforeseen conditions that require hospitalization for the treatment of accidental injury and relief of acute pain, which, if not immediately diagnosed and treated, would result in risk of permanent danger to the patient's health.

"Enrollee" means a person who is enrolled in a PACE program.

"Federal PACE regulations" means the standards published in 42 CFR Part 460, Programs of All-Inclusive Care for the Elderly, as amended to August 1, 2024. These rules shall be interpreted so as to comply with the federal PACE regulations.

"Grievance" means an incident, complaint, or concern that cannot be resolved in a manner satisfactory to enrolled recipients by the immediate response, verbal or otherwise, of the PHP staff member receiving the complaint or any complaint received in writing.

"Interdisciplinary team" means the team designated by the PACE organization to assess the needs of and develop a comprehensive plan of care for each enrollee.

"Managed health care" means any one of the alternative deliveries of regular, fee-for-service Medicaid, such as defined in subrules dealing with health maintenance organizations (HMOs), or PHPs.

"Managed health care review committee" means a committee composed of representatives from the department. The committee will review and render a decision on all requests for disenrollment that are not automatically approvable.

"Medicare beneficiary" means a person who is entitled to Medicare Part A benefits, is enrolled under Medicare Part B, or both.

"Nonmanaged services" means medical services covered under regular Medicaid that are not covered in the PHP's contract with the department. Payment for nonmanaged services incurred by an enrolled recipient shall be made under regular Medicaid procedures.

"PACE enrollment agreement" means the contract between the PACE organization and the enrollee that includes, at a minimum, all information identified in 42 CFR Section 460.154 as amended to August 1, 2024.

"Participating providers" means the providers of covered medical services that subcontract with or who are employed by the PHP.

"Prepaid health plan" or *"PHP"* means an entity defined in Section 1903(m)(2)(B)(iii) of the Social Security Act as amended to August 1, 2024, and considered to be a PHP by the department based upon criteria set forth in the Code of Federal Regulations at Title 42, Part 434.20(a)(3) as amended to August 1, 2024.

"Primary care" includes all program components in accordance with 42 CFR Section 460.92 as amended to August 1, 2024.

"Recipient" means any person determined by the department to be eligible for Medicaid and for PHP enrollment.

"Routine care" means medical care that is not urgent or emergent in nature and can wait for a regularly scheduled physician appointment without risk of permanent damage to the patient's life or health status. The condition requiring routine care is not likely to substantially worsen without immediate clinical intervention.

"Service area" means the specific counties in which a PACE provider may provide services as identified in the PACE program agreement.

"Urgent, nonemergency need" means the existence of conditions due to an illness or injury that are not life-threatening but that require expeditious treatment because of the prospect of the condition worsening without immediate clinical intervention.

The following definitions have the same meaning as set forth in 42 CFR Section 460.6 as amended to August 1, 2024:

"Contract year"

"Medicaid enrollee"

"Medicare enrollee"

"PACE"

"PACE center"

"PACE organization"

"PACE program"

"PACE program agreement"

"Services"

"Trial period"

441—88.2(249A) Participation.

88.2(1) *Contracts with PHPs.* The department shall enter into contracts for the scope of services specified in 441—Chapter 78, or a part thereof, with a PHP that has verified to the department that the criteria set forth in the Social Security Act have been met. This verification shall be reviewed by CMS staff to ensure that the status of PHP is rightfully conferred. The department may also include the scope of services described in 441—Chapter 74, known as the Iowa Health and Wellness Plan, or part thereof, in contracts with PHPs.

a. The department shall also determine that the PHP meets the following additional requirements:

(1) The PHP shall make the services it provides to enrolled recipients at least as accessible (in terms of timeliness, duration, and scope) to them as those services are accessible to recipients in the enrollment area who are not enrolled.

(2) The PHP shall provide satisfaction to the department that insolvency is not likely to occur and that enrolled Medicaid recipients shall not be responsible for its debts if the PHP should become insolvent.

b. Any protests to the award of contracts shall be in writing and submitted to the director of the department. Prior to termination or suspension of a contract, the department will send a notice to cure to the PHP, specifying the number of days the PHP has to correct the problems. Failure to correct the problems in the time given shall then result in termination or suspension. The PHP may appeal the decision of the department in writing to the director of the department or to the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services, if the appeal documents state violations of federal law or regulation.

88.2(2) *Method of selection of PHP.* In counties served by a single prospective PHP, the department will attempt to negotiate directly with the PHP. In counties where two or more prospective PHPs exist, the department will initiate communication and attempt to negotiate as many contracts as are administratively feasible.

88.2(3) *Termination of contract.* Either party may, by mutual consent, terminate a contract. Either party may give 60 days' written notice to the other party. The effective date of termination must be the first day of a month. The department may terminate or suspend a contract if the contract is determined by the department to be inconsistent with the overall goals and objectives of the Medicaid program.

441—88.3(249A) Enrollment.

88.3(1) *Recipients eligible to enroll.* Any Medicaid-eligible recipient is eligible to enroll in a contracting PHP except for the following:

a. Recipients who are medically needy as defined at 441—subrule 75.1(35).

b. Recipients over the age of 65 and under the age of 21 in psychiatric institutions as defined at 441—Chapter 85.

c. Recipients who are supplemental security income-related case members.

d. Recipients whose eligibility is in the process of automatic redetermination as defined at rule 441—76.11(249A).

e. Recipients who are foster care and subsidized adoption-related case members.

f. Recipients who are Medicare beneficiaries.

g. Recipients who are pregnant women and who are deemed to be presumptively eligible as defined at 441—subrule 75.1(30).

h. Recipients who are Native American Indians or Alaskan natives.

i. Recipients who are receiving services from a Title V provider.

88.3(2) *Enrollment area.* Counties in a PHP enrollment area can be designated as voluntary or mandatory. In voluntary counties, enrollment is not required, but eligible recipients may choose to join the PHP. Recipients not excluded may volunteer to enroll in the PHP. In mandatory counties, enrollment in managed health care is required for eligible recipients.

88.3(3) *Voluntary enrollment.* When only one managed health care option is providing service in a county, enrollment by recipients is voluntary. Applicants and recipients are offered the option of managed health care enrollment or regular Medicaid coverage. Applicants and recipients who do not

choose one option or the other will be assigned to a managed health care provider as defined in subrule 88.3(6). These persons have the right to request disenrollment at any time as defined in rule 441—88.4(249A). Applicants or recipients may designate the applicants' choices of providers on a form designated by the managed health care contractor or in writing to or through a verbal request to the managed health care contractor. The form will be available through the county office, the PHP office, provider offices, the managed health care contractor, or other locations at the department's discretion. If the PHP (or any entity listed above other than the managed health care contractor) receives the form, it shall be forwarded to the managed health care contractor within three working days. Recipients shall be accepted by the PHP as the recipients are enrolled by the department unless a maximum limit has been specified in the contract. Recipients who choose not to enroll in a PHP shall be covered under regular Medicaid.

88.3(4) *Mandatory enrollment.* In a county where the department has a contract with more than one PHP, HMO, or other managed health care provider, the department will require whenever it is administratively feasible that all eligible recipients enroll with a managed health care provider of their own choosing. Administrative feasibility is determined by whether the managed health care providers have the capacity to adequately serve all potential enrolled recipients. Recipients may enroll by completing the choice form designated by the managed health care contractor, in writing to or through verbal request to the managed health care offices. Recipients may also contact the managed health care contractor by the publicized toll-free telephone number for enrollment assistance.

88.3(5) *Effective date.* The effective date of enrollment will be no later than the first day of the second month subsequent to the date on which the managed health care contractor receives the form designated by the managed health care contractor.

88.3(6) *Assignment methodology.* When no choice is made, the recipient will be systematically assigned to, between, or among the contracting managed health care providers.

a. Notification. Recipients who are assigned to a managed health care provider will receive notification of the assignment and the name of the provider in a timely fashion prior to the effective date of enrollment.

b. Limitations. Contracting providers may specify in the contract a limit to the number of recipients who can be assigned under this subrule. If a specified limitation is attained, the remaining assignment needs in that county will be met by the other managed health care providers who are contracting with the department in that county.

c. Household member enrollment. When some household members have made a choice and some have not (so that assignment is required), a systematic search of household member choices regarding managed health care options will be completed. Assignment of those who have made no choice will be made whenever possible to the managed health care provider with whom the first household member is already enrolled.

d. Assigned recipients who desire another choice. Recipients who are assigned to a managed health care provider as described in this subrule have at least 30 days in which to request enrollment in a different available managed health care plan. The change of plan is subject to provisions in subrules 88.3(4) and 88.4(2) dealing with effective date.

441—88.4(249A) Disenrollment.

88.4(1) *Disenrollment request.* An enrolled recipient may request disenrollment at any time. In voluntary counties, this request will be approved and acted upon within ten days of receipt without requiring the recipient to demonstrate good cause. In mandatory counties as defined at subrule 88.3(3), the disenrollment will not be acted upon by the health care contractor unless the request includes an alternate choice of managed health care.

88.4(2) *Effective date.* Disenrollment will be effective no later than the first day of the second calendar month after the month in which the department receives a request for disenrollment. The recipient will remain enrolled in the PHP and the PHP will be responsible for services covered under the contract until the effective date of disenrollment, which will always be the first day of a month.

88.4(3) *Disenrollment process.* If the recipient is requesting disenrollment, the recipient shall complete the choice form designated by the managed health care contractor that can be obtained through the PHP, the county office, or the managed health care contractor. If the PHP receives a request from the recipient, the PHP shall forward the form to the managed health care contractor within three working days. If the recipient must show good cause for disenrollment, the determination as to whether disenrollment shall occur shall be made within 30 days. If the recipient or the PHP disagrees with the decision, an appeal may be filed under the provisions of 441—Chapter 7. If the PHP is requesting disenrollment, the PHP shall complete a form prescribed by the department. If the county office receives such a completed form from the managed health care provider, the county office will forward the form to the managed health care review committee within three working days.

a. Request for disenrollment by the recipient. In voluntary counties, the request will be approved and acted upon within ten days of receipt by the managed health care contractor. In mandatory counties, a request for disenrollment will be denied unless a choice of another managed health care provider is requested simultaneously or good cause can be demonstrated to the review committee. Examples of good cause include services received that were untimely, inaccessible, of insufficient quality, or inadequately provided by all of the contracting managed health care providers in the recipient's county of residence. If the recipient has not experienced the above conditions in all the other available managed health care programs, enrollment in one of the alternative managed health care programs will be a condition of approving disenrollment.

b. Request for disenrollment by the PHP. With prior approval of the managed health care review committee, a request for disenrollment of an enrolled recipient may be approved when:

(1) There is evidence of fraud or forgery in the use of PHP services or in the choice for PHP services.

(2) There is evidence of unauthorized use of the PHP identification card.

(3) Upon documentation, the PHP has been unable after reasonable efforts to establish or maintain a satisfactory physician-patient relationship with the recipient.

88.4(4) *Disenrollments by the department.* Disenrollments will occur when:

a. The contract between the department and the PHP is terminated.

b. The recipient becomes ineligible for Medicaid. If the recipient becomes ineligible and is later reinstated to Medicaid, enrollment in the PHP will also be reinstated.

c. The recipient permanently moves outside the PHP's enrollment area.

d. The recipient transfers to an eligibility group excluded from PHP enrollment. See definition of recipient in rule 441—88.1(249A).

e. The department has determined that participation in the HIPP (Health Insurance Premium Payment) program as described in rule 441—75.21(249A) is more cost-effective than enrollment in managed health care.

88.4(5) *No disenrollment for health reasons.* No recipient will be disenrolled from a PHP because of an adverse change in health status.

441—88.5(249A) Emergency services.

88.5(1) *Availability of services.* The PHP will ensure that the services of a primary care physician are available on an emergency basis 24 hours a day, seven days a week, either through the PHP's own providers or through arrangements with other providers. In addition, the PHP must provide payment to nonparticipating providers within 60 days of receipt of the bill for all contracted services furnished by providers that do not have contractual arrangements with the PHP to provide services but that were needed immediately because of an injury or illness and in which case the illness or injury did not permit a choice of provider.

88.5(2) *PHP payment liability.* PHP payment liability on account of injury or emergency illness is limited to emergency care required before the recipient can, without medically harmful consequences, return to the enrollment area or to the care of a provider with whom the PHP has arrangements to provide services. If an ambulance is necessary to transport the recipient to follow-up treatment, the PHP

shall be financially liable. Benefits for continuing the follow-up treatment are provided only in the PHP's enrollment area.

If an enrolled recipient is injured or becomes ill and receives emergency services outside the PHP's enrollment area, the PHP shall pay the facility or person who provided the emergency care for emergency medical services and medical services, for inpatient hospital services in a general hospital as a result of the emergency, and for emergency ambulance service.

88.5(3) *Notification and claim filing time span.* The PHP may set notification and claim filing time limitations in the event of the provision of care by nonparticipating providers. However, failure to give notice or to file claims within those time limitations will not invalidate any claim if it can be shown that it was not reasonably possible to give the notice and that notice was, in fact, given as soon as was reasonably possible.

441—88.6(249A) Access to service.

88.6(1) *Choice of provider.* Recipients will have the opportunity to choose their health care professionals to the extent possible and medically appropriate from any of the PHP providers participating in the Medicaid contract.

88.6(2) *Medical service delivery sites.* Medical service delivery sites shall have the following specific characteristics:

a. Be located within 30 miles of and be accessible from the personal residences of enrolled recipients.

b. Have sufficient staff resources to adequately provide the medical services for which the contract is in effect including physicians with privileges at one or more acute care hospitals.

c. Have arrangements for services to be provided by other providers where in-house capability to serve specific medical needs does not exist.

d. Meet the applicable standards for participating in the Medicaid program.

e. Be in compliance with all applicable local, state, and federal standards related to the service provided as well as those for fire and safety.

88.6(3) *Adequate appointment system.* The PHP shall have procedures for scheduling patient appointments as follows:

a. Patients with urgent nonemergency needs shall be seen within one hour of presentation at a PHP medical service delivery site.

b. Patients with persistent symptoms shall be seen within 48 hours of reporting of the onset of the persistent symptoms.

c. Patient routine visits shall be scheduled within four to six weeks of the date the patient requests the appointment.

d. Scheduling of appointments shall be by specific time intervals and not on a block basis.

88.6(4) *Adequate after-hours call-in coverage.* The PHP must have in effect the following arrangements for adequate after-hours call-in coverage:

a. Twenty-four-hour-a-day telephone coverage shall exist.

b. If a physician does not respond to the initial telephone call, there must be a written protocol specifying when a physician must be consulted. Calls requiring a medical decision shall be forwarded to the on-call physician, and a response to each call requiring a medical decision must be provided within 30 minutes.

c. Notations shall be made in the patient's medical record of relevant information related to an after-hours call.

88.6(5) *Adequate referral system.* The PHP must have an adequate referral system as follows:

a. A network of referral sources for all services that are covered in the contract but not directly provided by the PHP.

b. Procedures for the return of relevant medical information from referral sources including review of information by the referring physicians, entry of information into the patient's medical record, and arrangements for periodic reports from ongoing referral arrangements.

c. A notation in the medical record for hospitals' patients indicating the reason, date, and duration of hospitalization and entry of pertinent reports from the hospitalization and discharge planning in the medical record.

441—88.7(249A) Grievance procedures.

88.7(1) *Written procedure.* The PHP must have a written procedure by which enrolled recipients may express grievances, complaints, or recommendations, either individually or as a class and that:

a. Is approved by the department prior to use.

b. Acknowledges receipt of a grievance to the grievant.

c. Sets time frames for resolution, including emergency procedures, appropriate to the nature of the grievance and that require that all grievances be resolved within 30 days.

d. Ensures the participation of persons with authority to require corrective action.

e. Includes at least one level of appeal.

f. Ensures the confidentiality of the grievant.

88.7(2) *Written record.* All grievances, including all informal or verbal complaints, that must be referred or researched for resolution must be recorded in writing. A log of the grievances must be retained and made available at the time of audit and must include progress notes and method of resolution.

88.7(3) *Information concerning grievance procedures.* The PHP's written grievance procedure must be provided to each newly enrolled recipient not later than the effective date of coverage.

88.7(4) *Appeals to the department.* A recipient who has exhausted the grievance procedure of the PHP may appeal the issue to the department under the provisions of 441—Chapter 7. Instances where the substance of the grievance relates to department policy shall be appealed directly to the department.

88.7(5) *Periodic report to the department.* The PHP shall make quarterly reports to the department summarizing grievances and resolutions as specified in the contract.

441—88.8(249A) Records and reports.

88.8(1) *Medical records system.* The PHP shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and, in addition, the PHP must maintain a medical record system that:

a. Identifies each medical record by the departmentally assigned state identification number.

b. Identifies the location of every medical record.

c. Places medical records in a given order and location.

d. Provides a specific medical record on demand.

e. Maintains the confidentiality of medical records information and releases the information only in accordance with established policy pursuant to subrule 88.8(3).

f. Maintains inactive medical records in a specific place.

g. Permits effective professional review in medical audit processes.

h. Facilitates an adequate system for follow-up treatment including monitoring and follow-up of off-site referrals and inpatient stays.

i. Meets state and federal reporting requirements applicable to PHPs.

88.8(2) *Content of individual medical record.* The PHP must have in effect arrangements that provide for an adequate medical recordkeeping system that includes a complete medical record for each enrolled recipient in accordance with provisions set forth in the contract.

88.8(3) *Confidentiality of records.* PHPs must maintain the confidentiality of medical record information and release the information only in the following manner:

a. All medical records of enrolled recipients shall be confidential and shall not be released without the written consent of the enrolled recipients or the responsible party acting on behalf of the enrolled recipient.

b. Written consent is not required for the transmission of medical record information to physicians, other practitioners, or facilities that are providing services to enrolled recipients under a subcontract with

the PHP. This provision also applies to specialty providers who are retained by the PHP to provide services that are infrequently used or are of an unusual nature.

c. Written consent is not required for the transmission of medical record information to physicians or facilities providing emergency care pursuant to rule 441—88.5(249A).

d. Written consent is required for the transmission of medical record information of a former enrolled recipient to any medical provider not connected with the PHP.

e. The extent of medical record information to be released in each instance will be based upon tests of medical necessity and a "need to know" on the part of the practitioner or facility requesting the information.

f. Medical records maintained by subcontracting providers must meet the requirements of this rule.

88.8(4) *Reports to the department.* Each PHP shall submit reports to the department as follows:

a. Annual audited financial statements no later than 120 days after the close of the PHP's fiscal year.

b. Periodic financial, utilization, and statistical reports as required by the department under the contract.

88.8(5) *Audits.* The department or its designee and the U.S. Department of Health and Human Services (HHS) may evaluate through inspections or other means, the quality, appropriateness, and timeliness of services performed by the PHP. The department or HHS may audit and inspect any records of a PHP, or the subcontractors of a PHP, which pertain to services performed and the determination of amounts paid under the contract. These records will be made available at times, places, and in a manner as authorized representatives of the department, its designee, or HHS may request.

441—88.9(249A) Marketing.

88.9(1) *Marketing procedures.* All marketing plans, procedures, and materials used by the PHP must be approved in writing by the department prior to use. Random door-to-door marketing of low-income families or the offering of financial incentives will not be approved.

88.9(2) *Marketing representatives.* Marketing representatives utilized to market Medicaid recipients must be sufficiently trained and capable of performing marketing activities within the requirements of the contract. The PHP's marketing representatives must represent the PHP in an honest and straightforward manner. In its marketing presentations, the PHP must include information that ensures that the representative is not mistaken for a department employee. Marketing presentations that intentionally belittle or maliciously downplay the benefit package, services, or providers of another participating managed health care option will not be approved.

88.9(3) *Marketing presentations.* The PHP may make marketing presentations in the local office(s) of the department or otherwise include the department in marketing efforts at the discretion of the department.

88.9(4) *Marketing materials.* Written material must include a marketing brochure or a member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to enrolled recipients as specified in the contract.

441—88.10(249A) Patient education.

88.10(1) *Use of services.* The PHP shall have procedures in effect to orient enrolled recipients in the use of services the PHP is contracting to provide. This includes what to do if the recipient requires medical care while out of the enrollment area, a 24-hour-a-day telephone number, appropriate use of the referral system, grievance procedures, and how emergency treatment is to be provided.

88.10(2) *Patient rights and responsibilities.* The PHP shall have in effect a written statement of patient rights and responsibilities which is available upon request as well as issued to all new enrolled recipients. This statement may be part of an informational brochure provided to all new enrollees. The right of the enrolled recipient to request disenrollment must be included.

441—88.11(249A) Payment to the PHP.

88.11(1) *Capitation rate.* In consideration for all services rendered by a PHP under a contract with the department, the PHP will receive a payment each month for each enrolled recipient. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to enrolled recipients under the contract.

88.11(2) *Determination of rate.* The capitation rate is actuarially determined by the department for the beginning of the new fiscal year using statistics and data about Medicaid fee-for-service expenses for PHP-covered services to a similar population during the preceding fiscal year. (For example, fiscal year 2020 rates are predicted with fiscal year 2018 dates of service for Medicaid fee-for-service expenditures.) The capitation rate may not exceed the cost to the department of providing the same services on a fee-for-service basis to an actuarially equivalent nonenrolled population group. A 1 percent incentive will be available to PHPs who contract to cover all services except those excluded by contract. PHPs electing to share risk with the department will have their payment rates reduced by an amount reflecting the department's experience for high-cost fee-for-service recipients.

88.11(3) *Amounts not included in rate.* The capitation rate does not include any amounts for the recoupment of losses suffered by the PHP for risks assumed under the current or any previous contract. The PHP accepts the rate as payment in full for the contracted services. Any savings realized by the PHP due to lower utilization from a less frequent incidence of health problems among the enrolled population shall be wholly retained by the PHP.

88.11(4) *Third-party liability.* If an enrolled recipient has health coverage or a responsible party other than the Medicaid program available for purposes of payment for medical expenses, it is the right and responsibility of the PHP to investigate these third-party resources and attempt to obtain payment. The PHP shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

441—88.12(249A) Quality assurance. The PHP shall have in effect an internal quality assurance system that meets the requirements of 42 CFR Section 434.44 as amended to August 1, 2024, and a system of periodic medical audits meeting the requirements of 42 CFR Section 434.53 as amended to August 1, 2024.

441—88.13(249A) PACE.

88.13(1) A PACE organization provides prepaid, capitated, comprehensive health care services in accordance with 42 CFR Section 460.4 as amended to August 1, 2024.

88.13(2) PACE programs may serve Medicaid members, Medicare beneficiaries, persons eligible for both Medicare and Medicaid benefits, and private-pay individuals. Enrollment to receive services from a PACE organization is voluntary. To enroll in a PACE program, an individual must meet eligibility requirements specified in 42 CFR Section 460.150 as amended to August 1, 2024. To continue to be eligible for PACE, an individual must meet the annual recertification requirements specified in 42 CFR Section 460.160 as amended to August 1, 2024.

441—88.14(249A) PACE organization application and waiver process. This rule sets forth the application requirements for an entity that seeks approval from the department as a PACE organization and the process by which a prospective PACE organization may request department review and approval of requests to CMS for waiver of federal requirements.

88.14(1) *Application requirements.* A person authorized to act on behalf of an entity seeking approval as a PACE organization shall prepare an application in the format suggested by CMS in 42 CFR Section 460.12 as amended to August 1, 2024.

88.14(2) *Waiver of federal requirements.* A prospective PACE organization must also receive CMS approval as a PACE organization. A prospective PACE organization must submit any request for waiver of federal PACE regulations to the department for initial review before submitting the request to CMS.

a. The waiver request shall be submitted as a document separate from the application. The request may be submitted:

(1) In conjunction with and at the same time as the application; or

(2) At any time during the approval process.

b. The prospective PACE organization shall submit the waiver request and documentation to the department.

88.14(3) *Review of applications and requests for waiver of federal requirements.* The department may conduct on-site visits and may request additional information from an entity in connection with an application for approval as a PACE organization or a request for waiver of federal requirements.

88.14(4) *Department action on applications.* Upon review of an application for approval as a PACE organization and action by CMS on any request for waiver of federal requirements, the department will determine whether it considers the entity qualified to be a PACE organization and whether it is willing to enter into a PACE program agreement with the entity. If so, the department will complete the application sections designated for the state administering agency and submit the completed application in its entirety to CMS.

441—88.15(249A) PACE program agreement. An entity that has been approved by the department and CMS to be a PACE organization must enter into an agreement with CMS and the department for the operation of a PACE program under Medicare and Medicaid. The agreement must be signed by an authorized official of CMS, the PACE organization, and the department.

88.15(1) *Content and terms of agreement.*

a. Required content. A PACE program agreement must include the information set forth in 42 CFR 460.32 as amended to August 1, 2024. In addition, the agreement must provide a description of procedures the PACE organization will follow if the PACE program agreement is terminated, including how the organization will:

(1) Inform enrollees, the community, CMS, and the department, in writing, about the organization's termination and transition procedures.

(2) Initiate contact with the local department office and assist enrollees in obtaining reinstatement of conventional Medicare and Medicaid benefits.

(3) Transition enrollees' care to other providers.

(4) Terminate marketing and enrollment activities.

b. Optional content. An agreement may include optional content in accordance with 42 CFR Section 460.32 as amended to August 1, 2024.

88.15(2) *Duration of agreement.* A PACE program agreement will be effective for a contract year but may be extended for additional contract years in the absence of a notice by a party to terminate.

88.15(3) *Enforcement of agreement.* If the department determines that the PACE organization is not in substantial compliance with requirements of the federal PACE regulations or of this division, the department may take one or more of the following actions:

a. Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

b. Withhold some or all payments under the PACE program agreement until the PACE organization corrects the deficiency.

c. Terminate the PACE program agreement.

88.15(4) *Termination of agreement by the department.*

a. Cause. The department may terminate a PACE program agreement at any time for cause, including but not limited to the circumstances set forth in 42 CFR Section 460.50 as amended to August 1, 2024.

b. Notice and opportunity for hearing. Except as provided in paragraph 88.15(4)*"c,"* before terminating an agreement, the department will furnish the PACE organization with the following:

(1) A reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that are the basis of the department's determination that cause exists for termination.

(2) Reasonable notice and opportunity for hearing (including the right to appeal an initial determination) before terminating the agreement.

c. Immediate termination. The department may terminate an agreement without invoking the procedures described in paragraph *"b"* of this subrule if the department determines that a delay in

termination resulting from compliance with those procedures before termination would pose an imminent and serious risk to the health of the enrollees.

88.15(5) *Termination of agreement by PACE organization.* A PACE organization may terminate an agreement after timely notice issued in accordance with 42 CFR Section 460.50(d) as amended to August 1, 2024.

88.15(6) *Transitional care during termination.* A PACE organization whose PACE program agreement is being terminated must provide assistance to each enrollee in accordance with 42 CFR Section 460.52 as amended to August 1, 2024.

441—88.16(249A) Enrollment and disenrollment. A PACE organization must comply with the federal enrollment requirements stated in 42 CFR Sections 460.152 through 460.156 as amended to August 1, 2024.

88.16(1) *Eligibility for Medicaid enrollees.* To enroll in a PACE program as an Iowa Medicaid enrollee, a person must meet the eligibility requirements specified in 42 CFR Section 460.150 as amended to August 1, 2024.

88.16(2) *Effective date and duration of enrollment.* A person's enrollment in the program is in accordance with 42 CFR Sections 460.158 and 460.160 as amended to August 1, 2024.

88.16(3) *Annual recertification.*

a. At least annually, the department will:

(1) Reevaluate whether each enrollee continues to need the nursing facility level of care; and

(2) Review all financial and nonfinancial eligibility requirements for Medicaid enrollees. The enrollee shall complete a form available from the department.

b. Deemed continued eligibility. If the department determines that an enrollee no longer needs the nursing facility level of care, the department, in consultation with the PACE organization, will determine whether, in the absence of continued PACE coverage, the enrollee reasonably would be expected to meet the nursing facility level-of-care requirement within the next six months. This determination will be based on a review of the enrollee's medical record and plan of care, applying criteria specified in the PACE program agreement. If the enrollee reasonably would be expected to meet the level-of-care requirement within six months, the enrollee's eligibility for the PACE program may continue until the next annual reevaluation.

88.16(4) *Involuntary disenrollment.* Involuntary disenrollment will occur for any of the reasons set forth in 42 CFR Section 460.164 as amended to August 1, 2024. An involuntary disenrollment will not become effective until the department has determined that the PACE organization has adequately documented acceptable grounds for disenrollment.

88.16(5) *Disenrollment responsibilities.* In disenrolling a Medicaid enrollee, the PACE organization must take the actions set forth in 42 CFR Section 460.166 as amended to August 1, 2024.

88.16(6) *Documentation of disenrollment.* A PACE organization must meet the disenrollment documentation requirements set forth in 42 CFR Section 460.172 as amended to August 1, 2024.

88.16(7) *Reinstatement in other Medicare and Medicaid programs.* After a disenrollment, the PACE organization shall work with CMS and the department to facilitate the former enrollee's reinstatement in other Medicare and Medicaid programs in accordance with 42 CFR Section 460.168 as amended to August 1, 2024.

88.16(8) *Reinstatement in PACE.* A previously disenrolled enrollee may be reinstated in a PACE program. If the reason for disenrollment is failure to pay the premium and the participant pays the premium before the effective date of disenrollment, the participant is reinstated in the PACE program with no break in coverage.

441—88.17(249A) Program services. A PACE organization shall furnish comprehensive medical, health, and social services that integrate acute and long-term care.

88.17(1) *Required services.* The PACE benefit package for all enrollees, regardless of the source of payment, must include the services set forth in 42 CFR Section 460.92 as amended to August 1, 2024.

88.17(2) *Excluded services.* The following services are excluded from coverage under PACE:

a. Any service that is not authorized by the enrollee's interdisciplinary team, even if it is a required service, unless it is an emergency service.

b. In an inpatient facility:

(1) A private room and private-duty nursing services unless medically necessary; and

(2) Nonmedical items for personal convenience, such as telephone charges and radio or television rental, unless specifically authorized by the interdisciplinary team as part of the enrollee's plan of care.

c. Cosmetic surgery. "Cosmetic surgery" does not include surgery that is required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy.

d. Experimental medical, surgical, or other health procedures.

e. Services furnished outside the United States, except in accordance with 42 CFR Sections 424.122 and 424.124 as amended to August 1, 2024, or as otherwise permitted under the Iowa Medicaid program.

88.17(3) *Service delivery and operations.* The PACE organization must establish and implement a written plan to furnish care that meets the needs of each enrollee in all care settings 24 hours a day, every day of the year in accordance with 42 CFR Section 460.98(b) as amended to August 1, 2024. In addition, a PACE organization must ensure accessible and adequate services to meet the needs of its enrollees in accordance with 42 CFR Sections 460.98(d) and (e) as amended to August 1, 2024.

88.17(4) *Minimum services furnished at a PACE center.* A PACE center must, at a minimum, furnish the services outlined in 42 CFR Section 460.98(c) as amended to August 1, 2024.

88.17(5) *Primary care.* Primary medical care must be furnished to an enrollee by a PACE primary care physician in accordance with 42 CFR 460.102(c)(2) as amended to August 1, 2024.

88.17(6) *Out-of-network emergency care.* In accordance with 42 CFR Section 460.100 as amended to August 1, 2024, a PACE organization must pay for out-of-network emergency care when the care is needed immediately because of an injury or sudden illness and the time required to reach the PACE organization or one of its contract providers would cause risk of permanent damage to the enrollee's health.

441—88.18(249A) Access to PACE services. An enrollee's access to PACE services is governed by a comprehensive plan of care developed for each enrollee by an interdisciplinary team based on a comprehensive assessment of the enrollee's health and social status.

88.18(1) *Interdisciplinary team.* A PACE organization shall establish an interdisciplinary team at each PACE center to comprehensively assess and meet the individual needs of each enrollee.

a. Team composition. The members of the interdisciplinary team must primarily serve PACE enrollees. At a minimum, the interdisciplinary team shall be composed of the members enumerated in 42 CFR Section 460.102(b) as amended to August 1, 2024.

b. Responsibilities. The interdisciplinary team is responsible for the initial assessment, periodic reassessments, plan of care, and coordination of 24-hour care delivery for each assigned enrollee. Each interdisciplinary team member is responsible for the following:

(1) Regularly informing the team of the medical, functional, and psychosocial condition of each enrollee.

(2) Remaining alert to pertinent input from other team members, enrollees, and caregivers.

(3) Documenting changes in an enrollee's condition in the enrollee's medical record, consistent with documentation policies established by the medical director.

c. Exchange of information. The PACE organization must establish, implement, and maintain documented internal procedures governing the exchange of information between team members, contractors, and enrollees and their caregivers consistent with the federal requirements for confidentiality in 42 CFR Section 460.200(e) as amended to August 1, 2024.

88.18(2) *Initial assessment.* The interdisciplinary team must conduct an initial comprehensive assessment of each enrollee promptly following enrollment.

a. Each of the interdisciplinary team members set forth in 42 CFR Section 460.104(a)(2) as amended to August 1, 2024, must evaluate the enrollee, at appropriate intervals, and develop a discipline-specific assessment of the enrollee's health and social status.

b. Other professional disciplines may be included in the comprehensive assessment process in accordance with 42 CFR Section 460.104(a)(3) as amended to August 1, 2024.

c. The assessment of each enrollee must include but not be limited to assessment of the items set forth in 42 CFR Section 460.104(a)(4) as amended to August 1, 2024.

88.18(3) *Plan of care.* In accordance with 42 CFR Section 460.104 as amended to August 1, 2024, the interdisciplinary team must promptly consolidate discipline-specific assessments into a single plan of care for each enrollee through discussion in team meetings and consensus of the entire team.

a. Content. The plan of care must:

(1) Specify the care needed to meet the enrollee's medical, physical, emotional, and social needs as identified in the initial comprehensive assessment.

(2) Identify measurable outcomes to be achieved.

b. Implementation. The interdisciplinary team shall:

(1) Implement, coordinate, and monitor the plan of care, whether the services are furnished by PACE employees or contractors; and

(2) Continuously monitor the enrollee's health and psychosocial status, as well as the effectiveness of the plan of care, through the provision of services, informal observation, input from enrollees and caregivers, and communications among team members and other providers.

c. Evaluation. On at least a semiannual basis, the interdisciplinary team shall reevaluate the plan of care, including defined outcomes, and make changes as necessary.

88.18(4) *Reassessment.*

a. Semiannual reassessment. On at least a semiannual basis, or more often if an enrollee's condition dictates, the interdisciplinary team members must conduct an in-person reassessment in accordance with 42 CFR Section 460.104(c) as amended to August 1, 2024.

b. Unscheduled reassessments. In addition to scheduled annual and semiannual reassessments, unscheduled reassessments may be required in accordance with 42 CFR Section 460.104(d) as amended to August 1, 2024.

c. Changes to plan of care. Interdisciplinary team members who conduct a reassessment must meet the requirements of 42 CFR Section 460.104(e) as amended to August 1, 2024.

88.18(5) *Procedures for resolving enrollee request to change the plan of care.* The PACE organization must have explicit procedures for timely resolution of a request by an enrollee or an enrollee's designated representative to initiate, eliminate, or continue a particular service in accordance with 42 CFR Section 460.121 as amended to August 1, 2024.

a. The PACE organization is responsible for:

(1) Informing the enrollee or the enrollee's designated representative of the enrollee's right to appeal the decision as specified in 42 CFR Section 460.122 as amended to August 1, 2024.

(2) Describing both the standard and expedited appeals processes of the PACE organization, including the right to obtain and conditions for obtaining expedited consideration of an appeal of a denial of services as specified in 42 CFR Section 460.122 as amended to August 1, 2024.

(3) Describing the right to and conditions for continuation of appealed services through the period of an appeal as specified in 42 CFR Section 460.122(e) as amended to August 1, 2024.

b. If the interdisciplinary team fails to provide the enrollee with timely notice of the resolution of the request or fails to furnish the services required by the revised plan of care, this failure constitutes an adverse decision. The enrollee's request must be automatically processed by the PACE organization as an appeal in accordance with 42 CFR Section 460.122 as amended to August 1, 2024.

c. The PACE organization must submit all documentation related to an appeal to the department.

441—88.19(249A) Program administrative requirements. A PACE organization shall comply with the federal administrative requirements stated in 42 CFR Sections 460.60 through 460.82 as amended to August 1, 2024, including requirements relating to organizational structure, governing body,

qualifications for staff who have direct contact with enrollees, training, program integrity, contracted services, oversight of direct care services, physical environment, infection control, transportation services, dietary services, fiscal soundness, and marketing.

88.19(1) *Enrollee rights.* A PACE organization shall comply with the federal participant rights requirements stated in 42 CFR Sections 460.110 through 460.124 as amended to August 1, 2024. Upon exhaustion of the PACE organization's appeal process, a Medicaid enrollee has the right to appeal to the department any adverse coverage or payment decision regarding any service, including any denial, reduction, or termination of any service, pursuant to 441—Chapter 7.

88.19(2) *Data collection, record maintenance, and reporting.* A PACE organization shall comply with federal data collection, records maintenance, and reporting requirements stated in 42 CFR Sections 460.200 through 460.210 as amended to August 1, 2024.

88.19(3) *Quality assessment and performance improvement.* A PACE organization shall comply with the federal quality assessment and performance improvement requirements stated in 42 CFR Sections 460.130 through 460.140 as amended to August 1, 2024.

88.19(4) *Federal and state monitoring.*

a. The PACE program shall cooperate with federal and state monitoring pursuant to 42 CFR Sections 460.190 through 460.196 as amended to August 1, 2024, including:

(1) Corrective action required pursuant to 42 CFR Section 460.194 as amended to August 1, 2024; and

(2) Disclosure of review results pursuant to 42 CFR Section 460.196(c) and (d) as amended to August 1, 2024.

b. The PACE program is subject to sanctions or termination pursuant to subrules 88.15(3) and 88.15(4).

c. During the trial period, CMS, in cooperation with the department, will conduct comprehensive annual reviews of the operations of a PACE organization to ensure compliance with PACE federal regulations as amended to August 1, 2024, and 441—Chapter 88, Division II.

d. After the trial period, the department, in cooperation with CMS, will conduct on-site reviews of a PACE organization at least every two years.

e. After a review, CMS and the department will report the results of the review to the PACE organization, along with any recommendations for changes to the organization's program.

f. Within 30 days of issuance of the report, the PACE organization shall develop and implement a corrective action plan to address any deficiencies identified through the review.

g. CMS or the department will monitor the effectiveness of the corrective actions implemented.

441—88.20(249A) Liability of Medicaid enrollee. A Medicaid enrollee shall contribute toward the cost of the enrollee's care according to the terms of this subrule. A PACE organization may not charge a premium to a Medicaid enrollee except for any amounts due pursuant to this subrule.

88.20(1) *Institutionalized enrollees.* Medicaid enrollees who reside in a medical facility are liable to the PACE organization for the Medicaid capitation payment to the extent of their total monthly income, with the exceptions allowed by 441—subrule 75.16(1) and the deductions allowed by 441—subrule 75.16(2).

88.20(2) *Noninstitutionalized enrollees.* Medicaid enrollees who do not reside in a medical facility are liable to the PACE organization for the Medicaid capitation payment to the extent of their total monthly income, with the deductions required by 42 CFR Section 435.726(c) as amended to August 1, 2024, with maintenance needs amounts set at the following levels:

a. The amount for the maintenance needs of the enrollee is set at 300 percent of the maximum SSI grant for an individual.

b. The additional amount for the maintenance needs of a spouse at home is set at the Iowa Medicaid program's medically needy income standard for one person.

c. The additional amount for the maintenance needs of a family at home is set at the Iowa Medicaid program's medically needy income standard for a family of the same size, to the extent that amount exceeds any amount allowed for the maintenance needs of a spouse at home.

These rules are intended to implement Iowa Code section 249A.4.

ARC 8660C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to debts due from transfers of assets and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 89, "Debts Due from Transfers of Assets," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 249F, 42 U.S.C. Section 1396p(3), and PL 109-171, Sections 6011 and 6016.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. These proposed rules allow the Department to establish a debt against a person who receives the transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for Medicaid. The debt is established against the transferee in an amount equal to the medical assistance provided, but not in excess of the fair market value of the assets transferred.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 2 to 3 p.m.	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u
January 21, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 299 255 416 174 Passcode: ebdJ6y

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 441—Chapter 89 and adopt the following **new** chapter in lieu thereof:

CHAPTER 89
DEBTS DUE FROM TRANSFERS OF ASSETS

441—89.1(249F) Definitions.

"Fair market value" means the price for which property or an item could have been sold on the open market at the time of transfer.

"Medical assistance" means the same as defined in Iowa Code section 249F.1.

"Property" means the same as defined in Iowa Code section 702.14.

"Transfer" means the disposal of property for less than fair market value through gifting, sale or any transfer or assignment of a legal or equitable interest in property.

"Transferee" means the person who receives a transfer or assignment of a legal or equitable interest in property for less than fair market value.

"Transferor" means the person who makes a transfer of a legal or equitable interest in property for less than fair market value.

441—89.2(249F) Creation of debt.

89.2(1) *Transfer of property.* Except as provided in rule 441—89.3(249F), any transfer of property for less than fair market value creates a debt due and owing to the department from the transferee if:

a. The transfer is made while the transferor is receiving medical assistance or within five years prior to application for medical assistance and between July 1, 1993, and December 31, 2018.

b. The transfer is made with the intent on the part of the transferee of enabling the transferor to obtain or maintain eligibility for medical assistance.

89.2(2) *Amount of debt.* The amount of the debt is the lesser of:

a. An amount equal to the medical assistance provided to or on behalf of the transferor on or after the date of the transfer.

b. The difference between the fair market value of the property at the time of transfer and the value of any consideration received.

441—89.3(249F) Exceptions. Notwithstanding rule 441—89.2(249F), transfers detailed in Iowa Code section 249F.1(3)*"b"* that occur on or after July 1, 1996, do not create a debt to the department.

441—89.4(249F) Presumption of intent. Any transfer of property for less than fair market consideration made while the transferor is receiving medical assistance or within five years prior to an application for medical assistance is presumed to be made with the intent, on the part of the transferee, of enabling the transferor to obtain or maintain eligibility for medical assistance. This presumption can be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was no part of the transferee's reason for accepting the transfer of property.

441—89.5(249F) Notice of debt. The department may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department as provided in rule 441—89.2(249F) pursuant to Iowa Code section 249F.3(1).

441—89.6(249F) No timely request of a hearing. If a timely written request for hearing is not received by the department, the department may enter an order pursuant to Iowa Code section 249F.3(3) and 249F.3(4).

441—89.7(249F) Timely request for a hearing. If a timely written request for a hearing is received by the department, the department will certify the matter for hearing to the district court pursuant to Iowa Code section 249F.4.

441—89.8(249F) Department-requested hearing. The department may also request a hearing on its own motion regarding the determination of a debt at any time prior to entry of an administrative order.

441—89.9(249F) Filing and docketing of the order. An order may be filed pursuant to Iowa Code section 249F.5(1). The department's order shall be presented, ex parte, to the district court for review and approval.

441—89.10(249F) Exemption from Iowa Code chapter 17A. Actions initiated under Iowa Code chapter 249F are not subject to Iowa Code chapter 17A. Review by the district court shall be an original hearing before the district court.

These rules are intended to implement Iowa Code chapter 249F.

ARC 8573C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to Medicare drug subsidy and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 91, "Medicare Drug Subsidy," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 249A.4 and 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Section 1935(a) of the Social Security Act (42 U.S.C. Section 1396u-5).

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. The purpose of this proposed chapter is to identify and implement procedures for the Department to accept applications and determine eligibility for a Medicare drug subsidy.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 2 to 3 p.m.	Microsoft Teams Meeting ID: 282 712 030 944 Passcode: Ce3j6u
January 21, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 299 255 416 174 Passcode: ebdJ6y

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 441—Chapter 91 and adopt the following **new** chapter in lieu thereof:

CHAPTER 91
MEDICARE DRUG SUBSIDY

441—91.1(249A) Definitions.

"Applicant" means a person applying for a Medicare drug subsidy through the department and includes a responsible person or authorized representative acting for an applicant, except for the purposes of subrule 91.2(2).

"Application" or *"Medicare drug subsidy application"* means the federal Social Security Administration's Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs.

"Authorized representative" means a person representing an applicant or recipient as described in 441—subrule 76.9(2).

"Recipient" means a person receiving a Medicare drug subsidy based on an application filed with the department and includes a responsible person or authorized representative acting for a recipient, except for the purposes of subrule 91.2(2).

"Responsible person" means a person acting on an applicant's or recipient's behalf as described in 441—subrule 76.9(1).

441—91.2(249A) Application.

91.2(1) *Application filing.* Any person may apply for the Medicare drug subsidy through the department in accordance with 441—Chapter 76.

91.2(2) *Identifiable application and signature.*

a. An identifiable application is an application that contains:

(1) The legible name and address of the applicant; and

(2) The signature of the applicant, a responsible person, or an authorized representative on Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs.

b. If an authorized representative signed the application forms on behalf of an applicant, the applicant or a responsible person must also sign the application forms before the application can be approved.

441—91.3(249A) Eligibility determination. The department will determine eligibility for the Medicare drug subsidy pursuant to Section 1860D-14 of the Social Security Act and implement federal regulations at 20 CFR Section 418 as amended to August 1, 2024.

91.3(1) *Cooperation.* An applicant must cooperate with the department in the application process. Cooperation may include providing additional information or verification of information, participating in an interview, or signing documents. Failure to cooperate in the application process shall be a basis for denial of an application.

91.3(2) Reserved.

441—91.4(249A) Effective date. The effective date of eligibility will be determined pursuant to 42 CFR Part 423 as amended to August 1, 2024.

441—91.5(249A) Changes in circumstances.

91.5(1) *Responsibility to report changes.* A Medicare drug subsidy applicant or recipient shall report to the department in a timely manner any changes in the following circumstances:

a. Care of dependents.
b. Household composition.
c. Household income.
d. Household resources.
e. Marital status.
f. Medicare eligibility or enrollment.
g. Place of residence.

91.5(2) *Effective date of change.* Changes in eligibility or level of subsidy will be effective the month following the month in which the change is reported.

441—91.6(249A) Reinvestigation. The department will reinvestigate eligibility as often as the recipient's circumstances indicate, but in no instance will the period between reinvestigations exceed 12 months.

91.6(1) *Application requested.* When requested to do so by the department, the recipient shall complete the Medicare drug subsidy application as part of the reinvestigation process. The application shall be completed within ten working days from the date a written request is issued. Failure to complete the application shall be a basis for cancellation or reduction of the subsidy.

91.6(2) *Additional information requested.* The recipient shall supply additional information needed to establish eligibility or level of subsidy pursuant to 441—Chapter 76.

441—91.7(249A) Appeals. An applicant or recipient shall have the right to appeal any adverse action by the department pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code sections 217.6 and 249A.4 and Section 1935(a) of the Social Security Act (42 U.S.C. Section 1396u-5).

ARC 8602C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to PROMISE JOBS program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 239B.4(6).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 239B and Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title I "Block Grants for Temporary Assistance for Needy Families (TANF)" (PL 109-171) (reauthorized 2006).

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter provides rules to implement the PROMISE JOBS Program as required by federal law for Iowa to receive Temporary Assistance for Needy Families (TANF) dollars. PROMISE JOBS provides employment and training

services to Family Investment Program (FIP) families to assist these families in gaining financial stability.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 93 and adopt the following **new** chapter in lieu thereof:

TITLE IX
WORK INCENTIVE DEMONSTRATION

CHAPTER 93
PROMISE JOBS PROGRAM

441—93.1(239B) Definitions.

"Applicant" means a child for whom assistance is being requested under the family investment program, any parent living in the home with the child, and any nonparental relative as defined in 441—subrule 41.3(1) who is requesting assistance for the child.

"FaDSS" means the family development and self-sufficiency program operated under 441—Chapter 49, which provides in-home family development services to families at risk of instability or long-term FIP dependency.

"Family investment agreement" or *"FIA"* means the agreement developed with a participant in accordance with Iowa Code section 239B.8.

"FIA-responsible person" means any member of the FIP applicant family unless exempt as described in 441—subrule 41.5(2). More information is contained in subrule 93.4(2).

"FIP" means the family investment program authorized in Iowa Code chapter 239B.

"Limited benefit plan" or *"LBP"* means a period of time in which a participant or member of a participant's family is either ineligible for any assistance under the FIP or eligible for reduced assistance in accordance with Iowa Code section 239B.9.

"Needy specified relative" means a nonparental specified relative as defined in 441—subrule 41.3(1) who meets all the eligibility requirements to be included in the FIP.

"Participant" for purposes of the PROMISE JOBS program means a person who has signed an FIA and is approved to receive FIP benefits, a parent or relative living in the home of a child approved to receive FIP benefits, or a person reconsidering a subsequent LBP.

"PROMISE JOBS program" means the promoting independence and self-sufficiency through employment, job opportunities, and basic skills program created in Iowa Code section 239B.17.

"TANF" means Title I Block Grants for Temporary Assistance for Needy Families (PL 109-171) (reauthorized 2006 and as amended to August 1, 2024).

441—93.2(239B) Program administration. The department will administer an employment and training program known as PROMISE JOBS.

93.2(1) *Availability of service.* PROMISE JOBS services shall include but are not limited to those listed in paragraph 93.4(4)*"b."*

a. The program shall be available statewide. If the department determines that sufficient funds are not available to offer services on location in each county, the department will prioritize the availability of services to those counties having the largest FIP populations.

b. Because of state and federal budgetary limitations, federal mandatory work requirements, requirements for minimum participation rates, and other TANF requirements imposed on the PROMISE JOBS program, the department will have the administrative authority to:

(1) Determine agency and geographical breakdowns for service;

(2) Designate specific groups for priority services; and

(3) Designate specific PROMISE JOBS components or supportive service levels for a waiting list.

93.2(2) *Contracts with provider agencies.* The department may contract with the department of workforce development, the department of economic development, or other appropriate entity to provide PROMISE JOBS services and case management of those services.

441—93.3(239B) Registration and referral.

93.3(1) *Registration for PROMISE JOBS.* Unless the department determines a person is exempt as specified in 441—subrule 41.5(2), an application for FIP assistance constitutes a registration for the PROMISE JOBS program and acceptance of the requirement to enter into an FIA for all members of the FIP case and all other persons responsible for the FIA as specified in rule 441—41.5(239B).

93.3(2) *Referral.* The department will refer all FIA-responsible persons from FIP applicant and participant households to PROMISE JOBS pursuant to 441—subrule 41.5(4).

93.3(3) *Initial appointment.*

a. FIP applicants. FIP applicants, including those who are in an LBP, will be offered an appointment with the PROMISE JOBS provider agency for orientation, assessment, and FIA development at the earliest available time. The provider agency shall make sufficient appointment times available to allow the applicant to be scheduled no later than ten calendar days after the date of the notice that FIA responsibility has begun as required by rule 441—93.4(239B), 441—paragraphs 41.5(1)*"c"* and *"d,"* and 441—paragraph 41.5(8)*"g."*

b. Exempt status change. Persons who become FIA-responsible while receiving FIP shall initiate PROMISE JOBS orientation and FIA development by contacting the appropriate PROMISE JOBS office to schedule an appointment within ten calendar days of the mailing date of the letter explaining that exempt status has been lost and FIA responsibility has begun as required by 441—subrule 41.5(5). If the person fails to schedule an appointment or fails to appear for an appointment, PROMISE JOBS shall send one written reminder letter that informs the person that those who do not develop an FIA shall enter into an LBP. If the person fails to schedule an appointment within ten calendar days of the written reminder letter or fails to appear for an appointment scheduled after the written reminder letter is sent, the person shall enter into an LBP as described in 441—paragraph 41.5(7)*"c."*

93.3(4) *Orientation.* Every person referred to PROMISE JOBS shall receive orientation services. PROMISE JOBS workers shall provide FIA orientation.

a. During orientation, each applicant shall receive a full explanation of:

(1) The advantages of employment under the family investment program (FIP), including information on earned income tax credits;

(2) Services available under PROMISE JOBS;

(3) Participant rights and responsibilities under the FIA and PROMISE JOBS;

(4) The LBP as described in 441—subrule 41.5(7);

(5) The availability of family planning counseling services in the area and the financial implications of newly born children on the participant's family.

b. Each applicant shall receive a form prescribed by the department, confirming that information described in paragraph 93.3(4)*"a"* has been provided.

93.3(5) *Initial meeting.* The PROMISE JOBS worker shall meet with each referred person, or with the family if another parent or a child is also referred to PROMISE JOBS, to:

a. Determine participation activities,

b. Establish expenses and a schedule for supportive payments, and

c. Discuss child care needs.

93.3(6) *Workforce development registration.* Each applicant is required to register for work with the department of workforce development, upon request by the PROMISE JOBS worker.

441—93.4(239B) FIA. The FIA is the condition of and basis for PROMISE JOBS services and is an eligibility requirement for the FIP as specified in rule 441—41.5(239B).

93.4(1) *Development.* An initial FIA shall be developed during the orientation and assessment process through discussion between the FIA-responsible person and the PROMISE JOBS worker. For the FIA to be considered completed, an FIA shall be signed by all of the following:

a. The FIA-responsible person or persons.

b. Other family members who are referred to PROMISE JOBS.

c. The PROMISE JOBS worker.

d. The PROMISE JOBS supervisor.

93.4(2) *FIA-responsible persons.* All members of the FIP applicant family shall develop and sign an FIA unless exempt as described in 441—subrule 41.5(2). When an FIA-responsible person is incompetent or incapacitated, someone acting responsibly on that person's behalf may participate in the interview. Responsibility for carrying out the steps of the FIA ends at the point that FIP assistance is not provided to the participant or when a participant becomes exempt.

a. Parents. All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA. Parents of any age are exempt only if they are receiving Supplemental Security Income (SSI) or they are not U.S. citizens and are not qualified aliens as defined in rule 441—40.1(239B). When the FIP-eligible group includes a minor parent living with one or both parents or a needy specified relative who receives FIP as described in 441—subparagraph 41.9(2)*"b"*(2) and none is exempt from PROMISE JOBS participation, each parent or needy specified relative is responsible for a separate FIA.

b. Teens. Participants aged 16 to the participants' nineteenth birthday shall be responsible for signing and carrying out the activities of the FIA unless they are receiving SSI or they attend school full-time.

(1) When the FIP-eligible group includes one or both parents or a needy specified relative and a child or children and none is exempt from PROMISE JOBS participation, all shall be asked to sign one FIA with the family and to carry out the activities of that FIA rather than signing separate FIAs.

(2) When the FIP-eligible group includes one or both parents or a needy specified relative who is exempt from PROMISE JOBS participation and a child or children who are not exempt, each child is responsible for completing a separate FIA.

(3) A minor nonparental specified relative who is not exempt and whose needs are included in the FIP grant shall be responsible for signing and carrying out the activities of the FIA.

c. Other adults. All other adults who are not exempt and whose needs are included in the FIP grant shall be responsible for signing and carrying out the activities of the FIA.

93.4(3) *FIA content.* The FIA shall include the goals of the family for achieving self-sufficiency and shall establish a time frame with a specific ending date, during which the family expects to become self-sufficient and after which FIP benefits will be terminated. For individuals and families with acknowledged barriers, one or more incremental FIAs may be written.

a. All FIAs shall:

(1) Outline the expectations of the PROMISE JOBS program and of the family;

(2) Clearly establish interim goals and FIA activities necessary to reach long-term goals and self-sufficiency;

(3) Identify barriers to participation so that the FIA may include a plan, appropriate referrals, and supportive services necessary to eliminate or manage the barriers;

(4) Stipulate specific services to be provided by the PROMISE JOBS program, including child care assistance, transportation assistance, family development services, and other supportive services;

(5) Include the participant's responsibility to provide verification of hours of participation, and how and when the verification will be submitted;

(6) Record a participant's response to the option of referral for family planning counseling as described in subrule 93.9(3).

b. Plans from other agencies. The FIA may incorporate a self-sufficiency plan that the family has developed with another agency or person, subject to the following requirements:

(1) The participant shall authorize PROMISE JOBS to obtain the self-sufficiency plan and to arrange coordination with the manager of the self-sufficiency plan by signing a release of information prescribed by the department.

(2) The self-sufficiency plan may be included in the participant's FIA if the self-sufficiency plan meets the requirements of this chapter and is deemed by the PROMISE JOBS worker to be appropriate to the family circumstances.

93.4(4) *Participation requirements.* The FIA shall require the FIA-responsible persons and family members who are referred to PROMISE JOBS to choose participation in one or more activities as described in this subrule.

a. Goals. It is expected that employment leading to economic self-sufficiency is the eventual goal of the FIA.

(1) To the maximum extent possible, the FIA shall reflect the goals of the family, subject to program rules; funding; the capability, experience, and aptitudes of family members; and the potential market for the job skills currently possessed or to be developed.

(2) The program goal for all participants is to be involved in PROMISE JOBS activities on a full-time basis unless problems or barriers prohibit this level of involvement. "Full-time" is considered an average of at least 30 hours per week. Exceptions to full-time involvement are identified in rule 441—93.14(239B) and subrule 93.4(5).

b. Activities. Except as specified in 441—paragraph 93.4(4)*"c,"* PROMISE JOBS activities may include but are not limited to any combination of the following activities:

(1) Orientation as described in subrule 93.3(4).

(2) Assessment as described in rule 441—93.5(239B).

(3) Job readiness and job search activities, including job readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, unplanned job opportunities, mental health treatment, substance use disorder treatment, or other rehabilitative activities, as described in rule 441—93.6(239B).

(4) Work activities, including part-time or full-time employment, self-employment, on-the-job training, work experience placement, or unpaid community service as described in 441—93.7(239B).

(5) Educational activities, including high school completion, high school equivalency diploma (HSED) certification, adult basic education (ABE), English as a second language (ESL) training, vocational training, or postsecondary training up to and including a baccalaureate degree as described in 441—93.8(239B).

(6) Parenting skills training as described in subrule 93.9(1).

(7) Participation in the FaDSS program or other family development programs as described in subrule 93.9(2).

(8) Referral for family planning counseling as described in subrule 93.9(3).

(9) Family violence option as described in subparagraph 93.4(5)*"c"*(2).

(10) Services provided by other agencies.

c. FIA activities for participants aged 16 to 19. Development of FIA activities shall follow these guidelines for participants aged 16 to 19.

(1) Participants aged 16 to 19 who are not parents and who have not completed high school shall be strongly encouraged to participate in educational activities to obtain a high school diploma or the equivalent. A high school education is recognized as important to achieving self-sufficiency. Participants shall be given information on the earning power of people with a high school education compared to those who do not so that participants are able to make an informed choice. If high school or high school equivalency completion is not included in a teenager's FIA, other FIA activities shall be required. High school or high school equivalency completion shall be proposed and reconsidered at the next FIA review.

(2) Parents under the age of 18 who are not married and who have not completed high school shall be expected to use enrollment or continued attendance in high school or involvement in a high school equivalency program as a first step in the FIA, except when the parent is deemed incapable of participating in these activities by the local education agency.

(3) Parents aged 19 and younger shall include parenting skills training as described in subrule 93.9(1) in their FIA, or the case file shall include documentation that this requirement has been fulfilled.

(4) Parents under the age of 18 who are not married and who do not live with a parent or legal guardian shall include FaDSS, as described in 441—Chapter 49, or other family development services as described in subrule 93.9(2) in the FIA. The FaDSS or other family development services shall continue after the parent reaches the age of 18 only when the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

d. FIA activities for participants convicted of a drug-related felony after August 22, 1996. A participant convicted of a drug-related felony after August 22, 1996, shall include drug rehabilitation

activities in the participant's FIA to verify that the participant does not illegally possess, use, or distribute a controlled substance except when:

(1) The participant successfully completed any applicable drug rehabilitation and court-ordered probation or parole resulting from the drug felony conviction, or

(2) The participant is currently on probation or parole and successfully completed all drug rehabilitation requirements resulting from the drug felony conviction, whether court-ordered or required by probation or parole.

e. Waiting lists. The department of health and human services reserves the authority to prioritize services to FIP applicants and participants in the order that best fits the needs of FIP applicants and recipients and PROMISE JOBS program participants. Participants who are placed on a waiting list for a PROMISE JOBS component shall include other appropriate activities in the FIA while waiting unless family circumstances indicate otherwise.

(1) Persons shall be removed from these waiting lists and placed in components at the discretion of state-level PROMISE JOBS administrators in order to help participants achieve self-sufficiency in the shortest possible time, meet budgetary limitations, enable participants to make maximum use of other programs, fulfill the federal minimum participation rate requirements, and meet other TANF requirements.

(2) Persons who were enrolled in approved postsecondary training at the time of FIP cancellation shall not be placed on a postsecondary training waiting list if the participant is still satisfactorily participating in approvable training at the time that FIP eligibility is regained.

f. Unavailability of funding. If funding for the PROMISE JOBS activities included in a participant's FIA or required supportive payments are not available, the participant's FIA shall be renegotiated to include different activities.

93.4(5) *Barriers to participation.* Problems with participation of a permanent or long-term nature shall be considered barriers to participation and shall be identified in the FIA as issues to be resolved or managed so that maximum participation can result.

a. Barriers defined. Barriers to participation include anything identified by an FIA-responsible person that prevents them from fully participating in PROMISE JOBS.

b. Inclusion in FIA.

(1) When barriers are identified by the applicant during initial assessment, removal or management of the barrier shall be part of the FIA from the beginning. If an FIA-responsible applicant refuses to include an identified barrier in their FIA, the applicant shall be denied FIP.

(2) When barriers are revealed by the participant or are identified by problems that develop after the FIA is signed, the FIA shall be renegotiated and amended to provide for removal or management of the barriers.

c. Cooperation. A participant who chooses not to cooperate in removing or managing identified barriers to participation shall be considered to have chosen the LBP. If the participant claims a cognitive or physical disability or mental illness that is expected to last for more than 12 consecutive months, the participant is required to apply for Social Security Disability and Supplemental Security Income benefits. When the participant refuses to apply for those benefits, the FIP household is ineligible for FIP as described in 441—subrule 41.8(1), and the LBP does not apply.

(1) In limited instances where special-needs care for a child or adult is not available, it may be most practical for the participant to develop the FIA to identify providing the care as part of the FIA.

(2) Victims of domestic violence may include in their FIA the family violence option, which is a plan to address or attempt to prevent domestic violence. The family violence option may allow for a temporary waiver from participation in PROMISE JOBS activities when appropriate for the participant or participant's situation.

(3) The PROMISE JOBS worker shall review the need for inclusion of a barrier to participation in the FIA at least once every six months to determine if the barrier continues to exist.

93.4(6) *Failure to complete an FIA.*

a. FIP applicants. An applicant's failure to develop or sign an FIA will result in denial of the family's application for FIP assistance as described in 441—paragraphs 41.5(4)*"a"* through *"c."*

b. FIP participants. FIP participants who choose not to enter into an FIA or who choose not to continue its activities after signing an FIA shall enter into the LBP as described in 441—subrule 41.5(7).

93.4(7) *Progress reviews.* The PROMISE JOBS worker shall review all FIAs at least once every six months with input from at least one family member. FIA goals and, if appropriate, the needs for child care, transportation, and other supports shall be reviewed for continued appropriateness.

93.4(8) *Renegotiation.*

a. The FIA shall be renegotiated to reflect a new plan for self-sufficiency if:

(1) The participant has participated satisfactorily in the current FIA activities but is not self-sufficient by the end date specified in the FIA; or

(2) The participant demonstrates effort in carrying out the steps of the FIA but is unable to participate satisfactorily in the current FIA activities due to a barrier as described in subrule 93.4(5); or

(3) The participant's circumstances change to such an extent that the current FIA activities are no longer appropriate.

b. Participants who choose not to cooperate in the renegotiation process when requested by PROMISE JOBS shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.4(9) *Reinstatement.* When a participant who has signed an FIA loses FIP eligibility and has not become exempt from PROMISE JOBS at the time of FIP reapplication, the contents of the original FIA and the participant's responsibility for carrying out the steps of that FIA may be reinstated when the steps of the FIA fit the family's current circumstances. The FIA shall be renegotiated and amended if needed to accommodate changed family circumstances.

441—93.5(239B) Assessment. The purpose of assessment is to provide an evaluation of the FIP applicant or participant family that furnishes a basis for the PROMISE JOBS worker to determine: (1) family members' employability and educational potential, so that participants can make well-informed choices; and (2) the services that will be needed for the family to achieve self-sufficiency, so that the worker can provide appropriate guidance.

93.5(1) *Initial assessment.* All persons referred to PROMISE JOBS shall complete an initial assessment, which includes a form prescribed by the department and shall review, at a minimum, the family's basic needs as determined by the department. This initial assessment shall be used to develop the initial FIA. The PROMISE JOBS worker shall meet individually with FIA-responsible persons.

93.5(2) *Additional assessments.* Additional assessments may include but are not limited to literacy and aptitude testing, educational level and basic skills assessment, evaluation of job interests or job skills, occupation-specific assessment or testing, or an evaluation of past pertinent information. An additional assessment may be used by mutual agreement between the PROMISE JOBS worker and the participant as a tool and to help explore possible FIA development. For a specific additional assessment to be required, completion of the assessment must be specified in the FIA.

a. Additional information on applicants. If information identified during the initial assessment indicates that further information is needed to help the participant and PROMISE JOBS worker identify appropriate FIA activities and level of involvement, the applicant shall complete additional assessments as determined by the PROMISE JOBS worker. Completion of this assessment may be the first step in the initial FIA.

b. Medical examination. The PROMISE JOBS worker may require a person to complete a medical examination before including a particular PROMISE JOBS activity in the FIA when a participant specifies or exhibits any condition that might jeopardize successful participation in the program. The worker shall ask the health practitioner to indicate to the best of the practitioner's knowledge whether the person is capable of completing the FIA activity or continuing with appropriate employment.

c. Rehabilitation assessments. At any time during the assessment process or as more information is revealed, a referral may be made for professional assessments in physical health, mental health, substance use disorder, or other rehabilitative services.

d. Additional information on participants. Assessments may be completed or redone at any time throughout the development and duration of the FIA if the information is needed to help the participant

and the PROMISE JOBS worker make decisions concerning the type or level of the participant's involvement in PROMISE JOBS activities.

93.5(3) *Postsecondary educational evaluation.* Participants who wish to include postsecondary education in their FIA shall complete an educational evaluation to determine the likelihood of success.

a. Request for education resulting in a vocational certificate or certificate of completion. Vocational certificate or certification of completion training programs offer short-term training in a specific vocational area. The PROMISE JOBS worker shall determine the likelihood of success using the following types of tools or information:

(1) A review of information from past training situations,
(2) Past job performance in comparable positions,
(3) Basic skills tests,
(4) Career-specific assessments,
(5) A specific standardized test, or
(6) Other key historical information.

b. Request for education resulting in an associate or baccalaureate degree. The PROMISE JOBS worker shall determine the likelihood of academic success through an educational evaluation. The evaluation may include use of the following types of tools or information:

(1) Standardized assessments in reading comprehension, math, and writing skills;
(2) Occupation-specific skills assessments;
(3) Interest inventories;
(4) Current or past grades; and
(5) Other pertinent historical information.

c. Documenting educational evaluation results. When a participant has requested education to be included in the FIA, the PROMISE JOBS worker shall document:

(1) What formal assessments were completed, if any, and what the results were;
(2) What other information was reviewed;
(3) How the evaluation information was used by the PROMISE JOBS worker in either approving or denying the inclusion of education in the participant's FIA; and
(4) Whether the request is approved or denied. If the request is denied, PROMISE JOBS shall issue a Notice of Decision: Services to the participant as required in paragraph 93.10(1)*"b."*

93.5(4) *Substituting or supplementing an assessment.*

a. Substituting assessment information. If the FIA-responsible person's mental status, physical status, and life situation have not changed significantly, comparable assessment information completed with another agency or person within the past two years may be used instead of performing new assessments.

(1) Examples of agencies or persons that may complete comparable assessment information include but are not limited to the department of workforce development, Head Start, public housing authorities, child welfare workers, vocational rehabilitation services, an educational institution or testing service, or family development services.

(2) The FIA-responsible person may authorize PROMISE JOBS to obtain these assessment results by signing a release of information prescribed by the department.

b. Supplementing assessment information. In order to ensure that the FIA activities do not conflict with any case plans that have already been established for the family, the FIA-responsible person may:

(1) Supplement assessment information, and
(2) Establish communication between the PROMISE JOBS worker and other agencies or persons.

c. Use of key historical information. When key historical information, such as a review of the participant's job history or past training outcomes, relays a clear picture of the participant's skills and abilities, a formal, standardized educational assessment may not be needed.

(1) If a participant is currently enrolled in or has been enrolled in comparable training or an academic program in the past two years, the evaluation of the participant's performance, including grades received, may be substituted for a formal, standardized educational assessment.

(2) When using historical information as an indicator of future success, changes in the participant's mental status, physical status, life circumstances, and motivation shall be given consideration.

93.5(5) *Assessment after FIP cancellation or LBP.* FIP participants who previously participated in either a basic or additional assessment and then were canceled from FIP or entered an LBP may be required to complete an assessment again when the PROMISE JOBS worker determines that updated information is needed for development or amendment of the FIA.

93.5(6) *Participants with FaDSS services only.* For participants with FaDSS services as the only activity in their FIA, the PROMISE JOBS worker shall use information provided by the FaDSS worker to help assess when a participant is ready to participate in other PROMISE JOBS activities. The PROMISE JOBS worker may require additional assessments to be completed if more information is needed to decide the type or level of the participant's involvement in other PROMISE JOBS activities.

93.5(7) *Documenting participation.* The participant shall provide documentation of participation in assessments as described in subrule 93.10(2). Persons who miss any portion of a scheduled assessment may be required to make up the missed portion, based on worker judgment and participant needs.

93.5(8) *Supportive payments allowed.* Except for assessment activities that occur on the same day as orientation, persons participating in assessment activities are eligible for child care assistance and transportation payments needed to allow the scheduled participation as described in rule 441—93.11(239B). When make-up sessions are required, the participant shall not receive an additional transportation payment, but necessary child care assistance shall be paid.

93.5(9) *Failure to complete assessment.* Participants who do not complete assessments that are written into their FIA shall be considered to have chosen the LBP unless they have good cause. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

441—93.6(239B) Job readiness and job search activities. Job readiness and job search activities include job readiness skills training and other activities that prepare a participant to search for or obtain employment, individual and structured job search, unplanned job opportunities, substance use disorder treatment, mental health treatment, and other rehabilitation activities. The participant and the PROMISE JOBS worker shall incorporate into the FIA the job readiness and job search activities that are appropriate for the goals, work history, skill level, and life circumstances of the participant.

93.6(1) *Job readiness.* Job readiness prepares participants to search for or obtain employment. Job readiness consists of job readiness skills training and other activities completed outside of a training session that prepare a participant to search for or obtain employment.

a. Delivery of job readiness skills training. Job readiness skills training is provided in scheduled sessions consisting of up to 30 hours of structured activity per week.

b. Job readiness skills training. Job readiness skills training may include but is not limited to:

(1) Interests and skills assessment;
(2) Self-esteem building and motivational exercises;
(3) Identifying and eliminating employment barriers;
(4) Résumé development;
(5) Completing job applications and follow-up letters;
(6) Obtaining interviews and communication skills;
(7) Interviewing skills development;
(8) Goal attainment planning;
(9) Soft skills and life skills;
(10) Job market trends and finding job leads;
(11) Self-marketing and positive attitude building; and
(12) Job retention skills.

c. Other job readiness activities. Job readiness may include activities that prepare the participant to search for or obtain employment and are completed outside of a training session.

d. Attendance. Attendance is required when a participant is scheduled for job readiness skills training or other job readiness activities unless the participant has good cause as described in rule 441—93.14(239B) or a barrier as described in subrule 93.4(5). Participants who miss any portion of job

readiness skills training may be required to either make up the missed portion of the sessions or to retake the entire week of training based on practical worker judgment and participant need.

e. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described in rule 441—93.11(239B) when needed to participate in job readiness skills training or other job readiness activities. The transportation payment shall be paid before the first scheduled day of participation.

(1) Participants who must repeat or make up any portion of job readiness skills training because of absence due to reasons as described in rule 441—93.14(239B) shall receive an additional transportation payment as described in subrule 93.11(3) for each day that must be repeated and child care assistance. This rule applies only when the participant will have transportation costs that exceed the participant's original payment because of repeating or making up a portion of job readiness skills training.

(2) Participants who must repeat or make up any portion of job readiness skills training as a result of absences due to reasons other than those described at rule 441—93.14(239B) shall not receive an additional transportation payment.

f. Documenting job readiness skills training or other job readiness participation. Hours of participation in job readiness skills training or other job readiness activities shall be documented as described in subrule 93.10(2).

g. Failure to participate in job readiness skills training activities. Participants who without good cause do not appear for scheduled job readiness skills training activities as stated in the FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(2) *Individual job search.* Individual job search shall be available to all participants, particularly those who have recent ties with the workforce, have successfully removed or reduced barriers to work, have completed job readiness skills training, or have completed education or training activities and are now ready to work. Participants are not required to participate in individual job search full-time. Individual job search may be combined with other FIA activities to reach full-time equivalency. Hours of participation in individual job search shall be determined according to the participant's individual circumstances and be at a level that will reasonably allow the participant to successfully find full-time employment. If after three calendar months the participant still has not found employment, the worker shall review the participant's situation for possible barriers to employment or possible need for training to increase the participant's employability. Job search may continue if appropriate, but linking with other activities should be considered.

a. Job search plan. A written job search plan using a form prescribed by the department shall be developed with input from the PROMISE JOBS participant and the PROMISE JOBS worker. A copy shall be provided to the participant. The plan shall:

(1) Contain a designated period for job search not to exceed five weeks ending on a Friday within the same calendar month and the specific methods for finding job openings.

(2) Specify the number of hours to be committed for each week of the designated period so as to provide the most effective use of transportation funds.

(3) Specify due dates for providing documentation of job search activities.

(4) Contain information as specific as possible about areas of employment interest, employers to be contacted, and other pertinent factors.

b. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described in rule 441—93.11(239B) when needed for participation in an individual job search. The transportation payment shall be paid in full prior to the start of each designated period of the individual job search. Transportation payments for any missed days of job search activity shall be subject to transportation overpayment policies as described in subrule 93.11(3).

c. Documenting job search participation. The participant shall document the actual hours spent on job contacts and other job search activities. Participant documentation shall be provided as described in subrule 93.10(2).

d. Failure to participate in individual job search. Participants who without good cause do not participate in the steps of the job search plan described at paragraph 93.6(2)*"a"* shall be considered to

have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(3) *Unplanned job opportunity.* PROMISE JOBS participants who have an unplanned opportunity to interview or apply for a job shall be encouraged to take advantage of the opportunity.

a. Supportive payments allowed. Child care assistance and transportation payments needed to make an unplanned job contact shall be provided as described in rule 441—93.11(239B) when the following conditions are met:

(1) The participant has a signed FIA,

(2) The job contact requires transportation to complete an application or to attend an interview, and

(3) The participant provides documentation as described in paragraph 93.6(3)*"b."* Payment shall be issued after documentation is received.

b. Documenting participation. The participant shall provide documentation of the actual time spent making the specific job contact. Documentation shall be provided as described in subrule 93.10(2).

c. LBP. An LBP does not apply when a participant fails to complete a job contact that is not part of a structured or individual job search plan.

93.6(4) *Structured job search.* Structured job search is designed with scheduled activities and required hours of participation to reflect proven job search techniques and the employment environment of the PROMISE JOBS service area. A PROMISE JOBS worker is available to monitor the participant's progress in the participant's job search and to provide assistance and support. Structured job search provides up to 30 hours of scheduled activity. Hours of participation in structured job search shall be determined according to the participant's individual circumstance and may be full-time or at a level that will reasonably allow the participant to successfully find full-time employment.

a. Attendance. Participants are scheduled to appear daily at the PROMISE JOBS site to access resources for job leads. Participants who miss any portion of scheduled structured job search may be required to either make up the missed portion of the session or to retake the entire week of training based on practical worker judgment and participant need.

(1) Participants who obtain employment averaging 30 hours or more per week may discontinue structured job search.

(2) Participants who obtain employment averaging 20 hours or more per week, but less than 30 hours per week, may discontinue structured job search if part-time employment was the FIA goal or the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

(3) Participants who obtain employment averaging less than 20 hours per week shall continue structured job search unless the scheduled job search hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with employment hours.

b. Job search plan. A written job search plan using a form prescribed by the department shall be developed with input from the PROMISE JOBS participant and the PROMISE JOBS worker. A copy shall be provided to the participant. The plan shall:

(1) Contain a designated period for job search and the specific methods for finding job openings.

(2) Specify the number of hours to be committed for the designated period so as to provide the most effective use of transportation funds.

(3) Specify the due date for providing documentation of job search activities.

(4) Contain information as specific as possible about areas of employment interests, employers to be contacted, and other pertinent factors.

c. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described in rule 441—93.11(239B) when needed to participate in structured job search.

d. Documenting participation. The PROMISE JOBS worker shall verify and document each participant's monthly hours of actual participation in structured job search. Participant documentation shall be provided as described in subrule 93.10(2).

e. Failure to participate in structured job search. Participants who without good cause do not complete structured job search as identified in their FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.6(5) *Substance use disorder treatment, mental health treatment, and other rehabilitative activities.* Substance use disorder or mental health treatment or other rehabilitative activities are available when needed for a participant to be successful in participating in other FIA activities.

a. Treatment determination. The need for treatment or rehabilitative activities must be determined by a qualified medical professional, substance use disorder professional, or mental health professional. The qualified professional must document that treatment or rehabilitative activities are needed for the participant to obtain or retain employment.

b. Supportive payments allowed. Child care assistance and transportation payments shall be provided as described in rule 441—93.11(239B) when needed to participate in substance use disorder treatment, mental health treatment, or other rehabilitative activities.

c. Documenting participation. The service provider shall verify actual hours of participation in treatment. Documentation of participation shall be provided as described in subrule 93.10(2).

d. Failure to participate in treatment or other rehabilitative activities. Participants who without good cause do not participate in substance use disorder treatment, mental health treatment, or other rehabilitative activities as specified in their FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

441—93.7(239B) Work activities. Work activities include full-time employment, part-time employment, self-employment, on-the-job training, work experience placement, and unpaid community service. The participant and the PROMISE JOBS worker shall incorporate into the FIA employment activities that are appropriate for the work history, skill level, and life circumstances of the participant. If the FIA activity is so hazardous that safety glasses, hard hats, or other safety equipment is needed, participation shall not be arranged or approved unless these safety precautions are available.

93.7(1) *Full-time or part-time employment.* FIAs may include full-time employment or part-time employment. Employment that does not lead to economic self-sufficiency may be included in the FIA only if the employment situation leads to better employment opportunities through building work skills and work history. More information about additional policies applicable to self-employment is contained in subrule 93.7(2).

a. Full-time employment. The goal for all participants is to participate in full-time employment. "Full-time employment" is defined as being employed an average of 30 or more hours per week.

(1) Persons who have not achieved self-sufficiency through full-time employment before the end date of the FIA may have the FIA extended.

(2) Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

b. Part-time employment. Part-time employment is defined as being employed an average of less than 30 hours per week. An FIA that includes part-time employment shall also include participation in other PROMISE JOBS activities, including additional part-time employment, unless barriers to participation exist as defined in rule 441—93.14(239B) and subrule 93.4(5).

c. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care assistance shall be provided as described in rule 441—93.11(239B) when needed for employment.

d. Verification of employment hours. Participants must provide verification of employment hours as described in subrule 93.10(2).

e. Failure to provide verification. Failure to provide verification of work hours after receiving a written reminder letter will result in an LBP.

f. Failure to maintain employment. A participant who without good cause does not maintain employment as identified in the FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.7(2) *Self-employment.*

a. Calculation of hours. Hours of participation for persons who are self-employed shall be calculated using actual gross income less business expenses divided by the federal minimum wage. PROMISE JOBS shall use the same income as used for FIP eligibility and benefits.

(1) Participants with self-employment income that equates to 30 or more hours per week are considered to be working full-time.

(2) Participants with self-employment income that equates to less than 30 hours per week are considered to be working part-time.

b. Review of participation. The PROMISE JOBS worker shall review calculated hours:

(1) When income changes, or

(2) At least once every six months.

c. Progress toward self-sufficiency. At the participant's FIA review, the participant's progress is determined by noting incremental increases in income and calculated work hours. In order to maintain self-employment as the only FIA activity, participants must:

(1) Reach full-time employment as defined in subparagraph 93.7(2)*"a"*(1), or

(2) Show progress toward self-sufficiency.

d. Requiring other FIA activities. When a participant has been self-employed for more than 12 months and has not shown progress toward self-sufficiency, the FIA shall include the part-time self-employment in combination with participation in other PROMISE JOBS activities unless barriers to participation exist as defined in subrule 93.4(5) and rule 441—93.14(239B).

(1) The other activities could include additional part-time employment.

(2) When the determination that a participant has not shown progress toward self-sufficiency is made after the initial FIA is developed, the FIA shall be renegotiated to include the other PROMISE JOBS activities. Participants who choose not to enter into the FIA renegotiation process shall enter into an LBP as described in 441—subrule 41.5(7). Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

e. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care assistance shall be provided as described in subrule 93.11(2) when needed for participation in self-employment.

f. Supportive payments not allowed. Funds may not be used to purchase supplies to enable a participant to begin a private business.

g. Documenting participation. Hours of participation in self-employment shall be calculated as specified in paragraph 93.7(2)*"a"* and documented in the case file. Participant documentation shall be provided as described in subrule 93.10(2).

h. Failure to maintain employment. Participants who without good cause do not maintain employment as identified in their FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.7(3) *On-the-job training.*

a. Definition. "On-the-job training" is defined as training in the public or private sector that:

(1) Is given to a paid employee while the employee is engaged in productive work, and

(2) Provides knowledge and skills essential to the full and adequate performance of the job.

b. Supportive payments. Transportation for on-the-job training is treated in the same manner as transportation for employment. Expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care assistance shall be provided as described in subrule 93.11(2) when needed for participation in on-the-job training.

c. Documenting participation. Documentation of participation shall be provided as described in subrule 93.10(2).

d. Failure to participate in on-the-job training. Participants who without good cause do not participate in on-the-job training as identified in their FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.7(4) *Work experience program.* Work experience sites shall provide participants with work experience.

a. Sponsors. Employers who participate in the work experience program are referred to as sponsors. Work experience sponsors may be public sector, private sector, community-based, faith-based, or nonprofit employers.

(1) Participants may be placed at work sites with religious institutions only when the work performed is nonsectarian and not in support of sectarian activities.

(2) Participants may not be used to replace regular employees in the performance of nonsectarian work for the purpose of enabling regular employees to engage in sectarian activities.

(3) Each work experience program sponsor shall provide to the PROMISE JOBS service provider a copy of the sponsor's safety rules before participants are referred for work site placement.

b. Positions. To request a work experience placement, the sponsor shall complete a form prescribed by the department for each type of position the sponsor wishes to fill. The request shall include a complete job description that specifies all tasks to be performed by the participant. PROMISE JOBS has final authority to determine suitability of any work experience position offered by a sponsor. Work experience positions:

(1) Must contain the same job description and performance requirements that would exist if the sponsor were hiring an employee for the same position;

(2) Shall not be related to political, electoral, or partisan activities;

(3) Shall not be developed in response to or in any way be associated with the existence of a strike, lockout, or other bona fide labor dispute;

(4) Shall not violate any existing labor agreement between employees and employers;

(5) Shall comply with applicable state and federal health and safety standards;

(6) Shall not be used by sponsors to displace current employees or to infringe on the promotional opportunities of current employees;

(7) Shall not be used in place of hiring staff for established vacant positions; and

(8) Shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

c. Participant selection. A participant's vocational skills and interests shall be matched as closely as possible with the job description and skills required by the sponsor.

(1) Participant responsibility. Participants shall interview for and accept positions offered by work experience sponsors. Participants shall present a form prescribed by the department to the sponsor at the interview. The form shall be completed by the sponsor and returned to PROMISE JOBS.

(2) Sponsor responsibility. Although sponsors are expected to accept work experience referrals made by PROMISE JOBS, sponsors may refuse any referrals they deem inappropriate for the available position. Sponsors shall not discriminate against any program participant because of race, color, religion, sex, age, creed, physical or mental disability, political affiliation, or national origin. Sponsors who refuse a referral must notify PROMISE JOBS in writing of the reason for the refusal.

d. Hours of participation. When a participant is involved in work experience that is subject to the Fair Labor Standards Act (FLSA) as amended to August 1, 2024, the participant cannot be required to work more hours than the amount of the monthly FIP grant divided by federal or state minimum wage, whichever is higher. Exception: To determine the maximum hours that can be required of a single-parent family on FIP with a child under the age of six, add the value of the family's Supplemental Nutrition Assistance Program (SNAP) benefits to the FIP grant amount before dividing by the minimum wage.

(1) A participant cannot be required to work more hours than those calculated under paragraph 93.7(4)*"d."* Only hours up to or less than that calculation can be included in the participant's FIA.

(2) If two or more members of the same household participate in work experience, the total required hours of participation of the household cannot exceed the hours calculated according to paragraph 93.7(4)*"d."*

(3) Each work experience assignment shall not exceed six months in duration.

e. Participant performance evaluations.

(1) Monthly evaluations. Sponsors shall complete a monthly evaluation of the participant's performance using a form prescribed by the department and provide a copy to PROMISE JOBS and to the participant.

(2) Final evaluations. Sponsors shall complete a form prescribed by the department at the time of termination for each work experience participant. When termination occurs at the sponsor's request, the sponsor shall specify the reason for termination and identify those areas of unsatisfactory performance. For participants who leave to accept regular employment or reach their work experience placement time limit, the sponsor's evaluation shall indicate whether or not a positive job reference would be provided if the participant requested one.

f. Supportive payments for work experience placements.

(1) Child care and transportation. Child care assistance and transportation payments shall be provided as described in rule 441—93.11(239B) when needed for participation in work experience.

(2) Required clothing and equipment. The sponsor will provide a documented list of clothing and equipment required by the work experience site. A participant may receive a one-time allowance per work-site assignment for clothing or equipment that is documented by the sponsor and that the participant is unable to obtain through existing resources.

(3) Workers' compensation. The department will provide workers' compensation coverage for all PROMISE JOBS work experience participants.

g. Documenting participation. Documentation of participation shall be provided as described in subrule 93.10(2).

h. Completion of work experience. Persons who complete a work experience assignment may move to another activity as provided under the FIA, be assigned to a different work site, or be reassigned to the same work site, whichever is appropriate under the FIA.

i. Failure to participate in work experience. A participant who without good cause does not participate in work experience as identified in the FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.7(5) *Unpaid community service.*

a. Work sites. Unpaid community service work sites shall be public or private nonprofit organizations. The PROMISE JOBS provider agencies shall provide community service work sites a written explanation of the following placement criteria. The placement:

(1) Shall comply with applicable state and federal health and safety standards;

(2) Shall not be related to political, electoral or partisan activities;

(3) Shall not be developed in response to or in any way associated with the existence of a strike, lockout, or other bona fide labor dispute;

(4) Shall not violate any existing labor agreement between employees and employers;

(5) Shall not be used to displace current employees or to infringe on their promotional opportunities;

(6) Shall not be used in place of hiring staff for established vacant positions; and

(7) Shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

b. Locating the work site. When a participant and the PROMISE JOBS worker agree that an unpaid community service placement is appropriate, PROMISE JOBS shall assist the participant in identifying potential work sites. The participant is responsible for locating and making arrangements with the work site. Formal interviews are not required to establish the relationship between the participant and the work site organization.

c. Length of assignment and weekly hours. The length of the work site assignment and the weekly hours of participation shall be determined through agreement among the work-site organization, the participant, and the PROMISE JOBS worker. When a participant is involved in community service that is subject to the FLSA as amended to August 1, 2024, the participant cannot be required to work more hours than the amount of the participant's monthly FIP grant divided by federal or state minimum wage, whichever is higher. Only hours up to or less than the maximum calculated may be included in the participant's FIA. Exceptions are as follows:

(1) For a participant who is a single parent with a child under the age of six, the maximum hours that can be required are determined by adding the value of the participant's SNAP to the FIP grant amount before dividing by the minimum wage.

(2) Participants who are court-ordered to do community service shall work the number of hours required by the court.

d. Supportive payments. Child care assistance and a transportation payment for each month of participation or part thereof shall be paid as described in rule 441—93.11(239B) when needed for participation in unpaid community service.

e. Documenting participation. Documentation of participation shall be provided as described in subrule 93.10(2).

f. Failure to complete unpaid community service. Participants who without good cause do not participate in unpaid community service as specified in their FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

441—93.8(239B) Education and training activities. Education refers to any academic or vocational course of study that enables a participant to complete high school, improves a participant's ability to read and speak English, or prepares a participant for a specific professional or vocational area of employment. Though employment leading to economic self-sufficiency is the eventual goal of all FIAs, it is recognized that education increases a person's chance of finding employment, particularly employment that leads to economic self-sufficiency. Any participant who requests participation in educational activities shall be evaluated to determine the likelihood of success. If the request is approved, a training plan shall be developed and included in the participant's FIA.

93.8(1) *Participant requirements.* The decision to include education in an FIA shall take into account the results of the educational evaluation pursuant to paragraph 93.8(1)*"b"* and the current educational level of the participant. Prior academic or vocational training is not, in itself, a reason for denial or approval of educational services. All family members who are approved for education shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same educational facility and in the same program. For education to be approved for inclusion in an FIA, the following requirements shall be met.

a. Vocational goal. For a participant enrolled in postsecondary education, the education must lead to a specific vocational goal. A degree in general studies or programs not leading to specific occupational outcomes cannot be included in a participant's FIA.

(1) Except as provided in subparagraph 93.8(1)*"a"*(2), a vocational goal must be in an occupational field for which available labor market information or emerging business trends in the participant's local area indicate employment potential. These trends or statistics must be provided by a legitimate source.

(2) Information to support employment potential in the participant's local area is not required when:

1. The participant has a documented job offer in the field before entering the training; or

2. The participant is willing to relocate after training to an area where there is employment potential. Documentation for the new location shall meet the requirements in subparagraph 93.8(1)*"a"*(1).

(3) For participants attending high school or high school equivalency activities, adult basic education or English as a second language, the vocational goal is to improve employability by successfully completing the activity.

b. Educational evaluation. An educational evaluation shall be completed according to subrule 93.5(3) before postsecondary education is included as an FIA activity. A participant under the age of 19 does not need to complete an educational evaluation in order to have high school completion included in the FIA.

(1) A participant who chooses to enter educational activities before obtaining approval is not eligible to receive supports as described in subrule 93.8(6) cannot use that activity to meet the FIA participation obligation, and shall be expected to participate in other FIA activities.

(2) A participant who is already involved in education at the time of FIP application or enters education before approval must meet the requirements in this rule before the educational activities can be included in the FIA. Once approved, the current educational activity may then be included in the participant's FIA, and the participant will be eligible to receive supports as described in subrule 93.8(6).

93.8(2) *Provider requirements.* Both public and private agencies may provide educational activities.

a. Type of provider. Education may be included in the FIA if obtained from a provider that is approved or registered with the state or is accredited by an appropriate accrediting agency. Training provided by a community action program, church, or other agency may be included in the FIA only if PROMISE JOBS determines that:

(1) The training is adequate and leads to the completion of the participant's vocational goal; and

(2) The training provider possesses appropriate and up-to-date equipment; has qualified instructors, adequate facilities, a complete curriculum, acceptable evaluation methods, and a good job-placement history; and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

b. Time and attendance. The provider must verify the participant's actual hours of attendance in an educational activity with a form prescribed by the department pursuant to subrule 93.10(2). If the educational activity is structured in such a way that verification cannot be obtained or the educational provider is unwilling to provide time and attendance verification, the educational activity cannot be included in the participant's FIA. Exceptions apply for online or distance learning as described in paragraph 93.10(2)*"f"* and for participants under age 20 as described in subparagraph 93.10(2)*"b"*(3).

93.8(3) *Approvable activities.* Training plans shall include only training activities that can be considered as meeting the FIA obligations for participation. The following activities may be included in a training plan:

a. Adult basic education.

b. Continuing education units when needed for the participant to be recertified or retrained to reenter a field in which the participant was previously trained or employed or to maintain certification needed to remain employed.

c. Correspondence courses when the courses are required but not offered by an educational facility attended by the participant.

d. English as a second language.

e. High school or high school equivalency completion. Any participant who does not have a high school diploma or high school equivalency diploma (HSED) shall be encouraged to obtain a diploma. A participant who is 18 years of age or older may be approved to return to regular high school only when the participant can graduate within one year of the normal graduation date. High school equivalency or high school courses and other types of vocational training may run concurrently.

f. Online or distance learning. The training:

(1) Must include interaction between the instructor and the student;

(2) Must include mechanisms for evaluation and measurement of student achievement; and

(3) Must be offered in Iowa unless the conditions in paragraph 93.8(3)*"g"* apply. An online training program shall be considered an out-of-state training program when any of the required training or testing occurs out-of-state.

g. Out-of-state training. Out-of-state training is approvable only when:

(1) Similar training is not available in Iowa,

(2) Relocation required to attend an in-state facility would be unnecessary if attending an out-of-state facility, or

(3) The only in-state facilities within commuting distance are private schools where tuition costs are higher than at an out-of-state facility within commuting distance.

h. Postsecondary education up to and including a baccalaureate degree program.

(1) A participant with no postsecondary education may be approved for training resulting in a certificate of program completion or an academic degree, such as an associate or baccalaureate degree. Participants who have not completed a high school education or received a high school equivalency diploma (HSED) may be required to do so before courses leading to an associate degree or higher are approved.

(2) A participant who has a baccalaureate degree or higher is considered employable. No further training shall be approved unless the participant's physical or mental status has changed to such an

extent that the past education is no longer appropriate. The participant must provide supportive evidence from either a qualified medical or mental health professional or the state rehabilitation agency.

(3) A participant who has successfully completed a postsecondary educational program that provides less than a baccalaureate degree may be approved for further training if the participant meets one of the following criteria:

1. The previous training is in an occupation that is outdated.
2. The previous training is in a field where current labor market information or emerging business trends show little or no employment opportunity.
3. The training requested is a progression in a specific career that moves a participant from entry-level positions to higher levels of pay, skill, responsibility, or authority.
4. The participant's background makes employment in the area in which the participant is trained impossible.
5. Changes in the participant's physical or mental status make the past training no longer appropriate. The participant must provide supportive evidence from a qualified medical or mental health professional or the state rehabilitation agency.

i. Prerequisite courses required by the selected training program.

j. Remedial coursework for one term when needed as determined by testing conducted by the training facility.

k. Summer school.

93.8(4) *Nonapprovable training activities.* Nonapprovable training activities shall not be included in the FIA. When an activity in which the participant is enrolled becomes nonapprovable, PROMISE JOBS shall cancel the current training plan and require the participant to renegotiate the FIA to include other activities. A form prescribed by the department shall be issued to inform the participant that the request for education is canceled. Nonapprovable activities include the following:

a. A course or training that the participant has previously completed.

b. Any course or training in a field in which the participant does not intend to seek employment after the training is completed. An exception may be made when the reason for not seeking employment is to receive further education when the education:

(1) Is a planned progression in a specific career path; and

(2) Will not lead to an advanced degree beyond a baccalaureate.

c. A training program that does not relate to the identified vocational goal.

d. Educational activities for which the participant has failed to earn the grades required for admission.

e. Education in a field in which the participant will not be able to be employed due to known criminal convictions or founded child or dependent adult abuse.

f. Out-of-state training except as allowed under paragraph 93.8(3)*"g."*

g. Training for jobs paying less than state minimum wage.

h. Training that will not be completed until after the participant leaves FIP. Training programs that exceed the known length of time during which the participant will remain eligible for FIP assistance shall be approved only if:

(1) The time remaining in the training is minimal and tuition has already been paid.

(2) There is a reasonable plan for how the program will be completed without the assistance and support from FIP or PROMISE JOBS. A reasonable plan may include but not be limited to school loans, grants, and scholarships.

93.8(5) *Training plan content.* Once a participant is approved for training, a training plan shall be developed and written into the participant's FIA. The training plan shall include:

a. Academic enrollment hours. Participants are encouraged to maintain as full an academic workload as is possible in order to complete their education in a timely manner. However, a person may choose to participate in education along with other activities such as employment, job readiness skills training, other job readiness activities, or other FIA activities.

b. Approved training plan activities.

c. The specific educational goal as defined in paragraph 93.8(1)*"a."*

d. A date by which the participant expects to complete training. This end date depends on:

(1) Time frames specified for a program as established by the educational facility.

(2) Whether the participant is attending full-time or part-time.

(3) Problems or barriers to involvement as identified in subrule 93.4(5) or 93.14(1).

e. Testing schedule. Participants enrolled in ABE or ESL programs must be able to complete training in the time determined by the testing schedule unless the PROMISE JOBS worker and, if appropriate, the participant's academic advisor or instructor agree that additional time may be allowed. Under no circumstances, however, shall more than 6 additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 months for ABE or 12 months for ESL.

93.8(6) *Supportive payments.* PROMISE JOBS may provide payment for certain expenses when needed to participate in approved education and training activities as described in this subrule and in subrule 93.11(4).

a. Eligibility.

(1) Eligibility for PROMISE JOBS supportive payments for education and training begins with the date when the participant begins training under an approved plan or is removed from a waiting list as described in paragraph 93.4(4)*"e,"* whichever is later.

(2) Participant eligibility for child care assistance and transportation payments begins as described in subparagraph 93.8(6)*"a"*(1) and shall be terminated when a training plan is canceled.

(3) Each participant in postsecondary vocational training is limited to 24 fiscal months of PROMISE JOBS payment of expenses needed for participation. The 24 fiscal months do not have to be consecutive. More information about additional limits on child care expenses is contained in paragraph 93.8(6)*"b."*

(4) When more than one facility offers a particular program, payment is limited to the amount required to attend the nearest educational facility except when attending a facility that is farther away will allow the family to reach self-sufficiency earlier.

b. Child care. Child care assistance shall be provided as described in subrule 93.11(2) and 441—Chapter 170 when needed for participation in education and training activities except as described in subparagraphs 93.8(6)*"b"*(1) and (2).

(1) Child care assistance payments needed for participation in postsecondary education activities are limited to 24 fiscal months.

(2) All child care assistance payments issued for child care for participation in postsecondary education activities count toward this limit, including payments issued while the person was not a PROMISE JOBS participant, pursuant to 441—subparagraph 170.2(2)*"b"*(1).

c. Transportation. Transportation payments shall be provided as described in subrule 93.11(3) when needed for participation in educational activities unless transportation payments are available from another source. Transportation needed for participation in education activities is subject to the limits described in paragraph 93.8(6)*"a."*

(1) When a participant receives a transportation payment from another program that equals or exceeds that possible under PROMISE JOBS, transportation shall not be paid by PROMISE JOBS for any month covered by the other program.

(2) When the amount received from another program is less than that possible under PROMISE JOBS, a supplemental payment may be made as long as the combined payment does not exceed that normally paid by PROMISE JOBS.

(3) When a participant is enrolled in high school, a transportation payment shall not be allowed if transportation is available from another source, such as the school district. If child care needs or the needs of the child or the participant make it impractical or inappropriate for the participant to use transportation provided by the school district, a transportation payment may be authorized.

d. Training expenses. Participants enrolled in high school or high school equivalency completion, ABE, ESL, or postsecondary vocational training may be eligible for payment of the following expenses of training when required for participation, subject to limits in subrule 93.11(4):

(1) Enrollment fees,

(2) School application fees,
(3) Educational grant or scholarship application fees,
(4) Licensing, certification and testing fees,
(5) Travel costs required for certification or testing, and
(6) Certain practicum expenses as described in subparagraph 93.11(4)*"a"*(3).

e. Direct education costs. Participants enrolled in high school or high school equivalency completion, ABE, ESL, or short-term training programs of 29 weeks or less may also be eligible for payment for direct education costs, including:
(1) Tuition,
(2) Books,
(3) Fees including graduation,
(4) Basic school supplies,
(5) Specific supplies related to obtaining credit for a course and required of all students in a course, and
(6) Required uniforms.

f. Supplies purchased with PROMISE JOBS funds. Participants may keep any books or supplies, including tools, that were purchased with PROMISE JOBS funds.

93.8(7) *Documentation.*

a. Plan. The following information shall be documented in the participant's file.
(1) Evaluation results, pursuant to paragraph 93.8(1)*"b."*
(2) Current educational level.
(3) Justification for approval of additional postsecondary education pursuant to subrule 93.5(3).
(4) Academic probationary status pursuant to subrule 93.8(8).
(5) Justification for denial of education. Notice of Decision: Services shall be issued to the participant to deny the request for education.

b. Participation. A participant shall provide documentation of the actual hours of participation in education and homework and of grades and academic progress as described in subrule 93.10(2).

93.8(8) *Academic probation.* A participant may be placed on academic probation for at least one term, or a comparable time limit appropriate to the educational program, after which the participant shall be reevaluated for continued inclusion in education activities. This subrule does not apply to parents under the age of 18 who are attending high school completion programs.

a. Placing a participant on academic probation. The PROMISE JOBS worker may choose to place a participant on academic probation in the following circumstances:
(1) The educational evaluation completed according to paragraph 93.8(1)*"b"* identifies some factors with the participant's ability or past circumstances that could make successful completion of the training difficult but the participant's motivation is high and changes in the participant's life situation indicate a realistic probability of success.
(2) The participant was previously unable to maintain the cumulative grade point average required by a training facility in training comparable to that being requested.
(3) The participant enrolled but did not complete a previous education activity without good cause.
(4) At the end of a term, or of a comparable period applicable to the educational program, the participant is receiving less than a 2.0 grade point average or less than a higher average that is required by the specific training facility or curriculum.

b. Probation outcomes. The participant shall be removed from probation for satisfactory performance if, by the end of the established probationary period, the participant is receiving at least a 2.0 grade point average or a higher average as required by the specific training facility or curriculum.
(1) Reevaluation. If the participant is not receiving the required grade point by the end of the probationary period, the participant shall be reevaluated to determine continued eligibility for participation in education using the same type of information used to originally evaluate the likelihood of academic success as identified in paragraph 93.8(1)*"b."* Documentation shall meet the requirements as stated in subrule 93.8(7).

(2) Continued probation. Probation may be continued when reevaluation indicates that education is appropriate. The PROMISE JOBS worker may also consider continued probation when:

1. Temporary barriers such as illness or family emergencies that interfered with successful participation have been resolved.

2. Long-term barriers to successful participation have been identified and accommodations developed and implemented.

3. The counselor or the lead instructor in the educational program verifies that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next term or a comparable time limit appropriate to the educational program.

(3) Cancellation of a training plan. The participant's current training plan shall be canceled if the participant has failed to maintain at least a 2.0 grade point average or a higher average required by the specific training facility or curriculum, and reevaluation indicates no mitigating circumstances as listed in subparagraph 93.8(8)*"b"*(2). When a training plan is canceled, the participant will be required to renegotiate the FIA to include either a new, more appropriate training plan or other FIA activities. Notice of Decision: Services shall be issued to the participant to inform the participant that the approval for education is canceled.

93.8(9) *LBP.* Participants in education choose an LBP through the following actions:

a. Failure to participate. The participant fails to maintain education activities or follow training plan requirements as specified in the participant's FIA, and the participant does not have good cause. Procedures in subrule 93.4(5) and 441—93.13(239B) and 441—93.14(239B) shall apply.

b. Misuse of payments. The participant misuses expense payments to the extent that the training plan is no longer achievable or knowingly provides receipts or any other written statements that have been altered, forged, or, in any way, are not authentic.

441—93.9(239B) Other FIA activities.

93.9(1) *Parenting skills training.*

a. Parents aged 20 or older. For parents who are aged 20 or older when the FIA is signed, activities that strengthen the participant's ability to be a better parent can be considered approvable training under PROMISE JOBS and may be included in the FIA as long as the participant is active in at least one other PROMISE JOBS component. Parents aged 20 or older who do not carry out the parenting skills training described in the FIA shall be considered to have chosen the LBP unless good cause exists or family circumstances warrant renegotiation and amendment of the FIA. Procedures in subrule 93.4(5) and 441—93.13(239B) and 441—93.14(239B) shall apply.

b. Parents aged 19 or younger. Parents aged 19 or younger when the FIA is signed are required to include parenting skills training in the FIA, but may be excused from the requirement when documentation of satisfactory completion of parenting skills training is provided before the FIA is signed.

(1) Priority for orientation or assessment. In any month, PROMISE JOBS shall give priority for orientation or assessment services to parents who are already aged 19 in order to establish their responsibility for parenting classes before they are aged 20. This applies to those who are scheduled for orientation, to those who are still in assessment, and to those who have an FIA that must be renegotiated and amended.

(2) FIA requirement. The FIA shall be written or renegotiated and amended to include specific plans for parenting skills training and shall identify the training provider's name and beginning and ending dates of the training. The scheduled training may be in the future to accommodate availability of provider resources. However, it shall occur as soon as is compatible with the circumstances of the family, the other activities in the FIA, and the availability of provider resources, except as specified in paragraph 93.4(4)*"e."*

(3) Parents aged 19 or younger who are participating in a parenting skills training program at the time the FIA is signed shall be allowed to continue in that program, if they choose, as long as the provider is listed in paragraph 93.9(1)*"c"* or meets the requirements of paragraph 93.9(1)*"c"* and

documentation of enrollment is provided. The time frames as described in paragraph 93.9(1)*"d"* shall be used to determine the remaining training time to be included in the FIA.

(4) Participation in other activities. Parents aged 19 or younger are not required to be participating in another PROMISE JOBS component to be eligible for parenting skills training. Other PROMISE JOBS components are included in the FIA according to policies at subrule 93.4(4).

c. Approved providers. The sources listed in this paragraph are approved providers for parenting skills training.

(1) High school departments of family and consumer sciences that offer child development, family relationships, or parenting classes and alternative high school programs for pregnant and parenting teens. Services shall be limited to a minimum of one semester and a maximum of two semesters.

(2) Community colleges, other associate-degree institutions, and baccalaureate-degree institutions that offer child development, family relationships, or parenting classes. Services shall be limited to one semester or two quarters.

(3) Area education agencies; child abuse prevention programs; child and adult food program sponsors; child care resource and referral agencies; family resource centers; maternal and child health centers; family development and self-sufficiency program grantees and other family development providers; Head Start, Head Start parent and child centers, and Early Head Start programs; Iowa State University Extension services; private nonprofit social service agencies; and young parent support and information organizations. Services shall be limited to:

1. A minimum of 6 contact hours or six weeks, whichever comes first, and
2. A maximum of 26 contact hours or six calendar months, whichever comes first.

d. Other providers of parenting skills training are approved as long as they:

(1) Have five of these six elements: child growth and development, child health and nutrition, child safety, positive discipline, relationships, and life skills.

(2) Offer training within the following time frames:

1. A minimum of 6 contact hours or six weeks, whichever comes first, and
2. A maximum of 26 contact hours or six calendar months, whichever comes first.

e. Supportive payments. For participants described in paragraphs 93.9(1)*"a"* and *"b,"* child care assistance and transportation payments shall be provided as described in subrule 93.11(3) when needed for participation in parenting skills training and not available from another source.

(1) Other expenses. Payment for tuition, fees, or books and supplies shall be made only when parenting skills training is not available from a free source in the local area. PROMISE JOBS shall not pay for any expenses that are covered by student financial aid in postsecondary educational institutions as provided elsewhere in these rules.

(2) Continuation of payments. If the participant chooses to continue with the parenting skills training program beyond the designated period of participation described in paragraph 93.9(1)*"c,"* PROMISE JOBS responsibility for payment of expense payments shall not extend beyond the designated period unless completion is delayed by acceptable instances for nonparticipation as stipulated in rule 441—93.14(239B) or barriers to participation in subrule 93.4(5).

f. Participation in parenting skills training. The planned duration of the parenting skills training shall be determined by agreement between the participant and the training provider within the limits described in paragraphs 93.9(1)*"c"* and *"d."*

(1) In consultation with the PROMISE JOBS worker, the participant and the provider shall design a written agreement and provide a copy to PROMISE JOBS. The agreement shall designate the period during which the mandatory parenting skills training requirement will be fulfilled. The period specified in the agreement or notice of decision shall be included in the FIA.

(2) Participants who fail to carry out this step in the FIA shall be considered to have chosen the LBP.

g. Failure to complete parenting skills training. Parents aged 19 or younger who do not include parenting skills training in the FIA or do not carry out the parenting skills training described in the FIA shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.9(2) *Family development.* Family development services are support services for PROMISE JOBS families in need of additional assistance, primarily provided by the FaDSS program operated by the department. The services are designed to promote, empower, and nurture the family to self-sufficiency and healthy reintegration into the community.

a. PROMISE JOBS may arrange for these services from entities that meet one of the following criteria wherever these are available. Family development services shall be:

(1) Provided by a FaDSS grantee; or

(2) Provided by a specialist that has been certified through the National Resource Center on Family Based Services at the University of Iowa College of Social Work or the National Family Support Certification Exam through the Institute for the Advancement of Family Support Professionals.

b. Inclusion of family development services by participants as an FIA activity is voluntary except for parents under the age of 18 who are not married and who do not live with a parent or legal guardian as described in subparagraph 93.4(4)*"c"*(4).

93.9(3) *Family planning counseling.* Referral for family planning counseling is an optional service that shall be offered to each applicant or participant. It is not a component of PROMISE JOBS.

a. The PROMISE JOBS worker shall:

(1) Discuss orally and in writing the financial implications of newly born children on the participant's family during PROMISE JOBS orientation or assessment, using a form approved by the department; and

(2) Assist the participant in locating local resources.

b. The FIA shall record participant response to the option of referral for family planning counseling. It is not acceptable for the FIA to have family planning counseling as the only step of the FIA.

c. Supportive payments. No supportive payments are allowed for family planning counseling.

d. Participation. LBP policies do not apply to participants who choose not to include family planning counseling in the FIA or who do not carry out the steps of family planning counseling.

441—93.10(239B) Required documentation and verification.

93.10(1) *Written notification to participants.*

a. Notice of meetings, assignments, and issues. PROMISE JOBS shall notify participants in writing of all scheduled meetings, of FIA activity and work-site assignments, and of any participation issues as described in rule 441—93.13(239B). PROMISE JOBS shall also notify the participant in writing when the participant is required to provide medical documentation, verification of hours of participation, employment verification, or any other verification.

(1) PROMISE JOBS shall allow a participant ten calendar days from the date notice is mailed to appear for scheduled meetings unless the participant agrees to an appointment that is scheduled to take place in less than ten working days. If the tenth calendar day falls on a weekend or state holiday, the participant has until the next working day.

(2) PROMISE JOBS shall allow a participant ten working days from the date notice is mailed to appear for an FIA activity or work-site assignment or to provide medical documentation, employment verification, or any other verification, except as otherwise specified in subrule 93.10(2). If the tenth calendar day falls on a weekend or state holiday, the participant has until the next working day.

(3) PROMISE JOBS shall allow additional time upon request from the participant when the participant is making every effort but is unable to fulfill requirements within the established time frame.

b. Notice of decision. PROMISE JOBS shall send written notice to each participant in accordance with 441—Chapter 16 when services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are approved when the participant is assigned to begin participation in an activity as written in the FIA.

93.10(2) *Verification of participation and progress.* Hours of participation and a participant's progress in FIA activities must be documented and verified. When the participant is responsible for providing the verification, PROMISE JOBS shall notify the participant in writing as required in subrule 93.10(1).

a. FIA activities directly monitored by PROMISE JOBS. When the FIA activities are provided or directly monitored by PROMISE JOBS staff, such as job readiness skills training or structured job search, the staff shall document the participant's hours of attendance and progress in the case file.

b. FIA activities not directly monitored by PROMISE JOBS. When FIA activities are provided by a service provider other than PROMISE JOBS, the provider shall verify the participant's hours of attendance with a form prescribed by the department unless another method is required by this rule.

(1) The provider is expected to specify the participant's hours of attendance and to sign and date the Time and Attendance form.

(2) The participant is responsible for providing the signed and dated Time and Attendance form to PROMISE JOBS within ten calendar days following the end of each month, unless the provider provides the form to PROMISE JOBS within this time frame.

(3) Exception: If the participant is under age 20 and in high school or high school equivalency classes, the participant may verify the hours by completing and submitting a form prescribed by the department, Time and Attendance, monthly. The training provider does not need to sign the form.

c. Documentation of job search. The participant shall complete and provide documentation of any job search activities that cannot be verified by the PROMISE JOBS worker. The participant shall provide a form prescribed by the department within ten calendar days following the end of each month during which the participant has made a job search. The PROMISE JOBS worker shall consider the Job Search Activity Log complete if the form includes:

(1) Sufficient information to identify the employer that was contacted or the activity that was completed,

(2) The date that the contact was made or the date the activity was completed,

(3) The amount of time spent, and

(4) The participant's signature.

d. Employment verification. Participants shall verify actual hours of employment at the time that employment begins, upon FIP approval if employed at the time of application, when changes in hours occur, and no less than once every six months thereafter. Participants may use copies of pay stubs, an employer statement of earnings, or may sign a release of information prescribed by the department so that the employer may provide information directly to the PROMISE JOBS worker. Participants shall provide verification of actual hours of employment within ten working days of the written request from PROMISE JOBS.

e. Documentation of self-employment. At the time of the participant's FIA review, a self-employed participant shall provide documentation of actual hours worked and gross income and business expenses from the last 30 days. Data from more than 30 days may be requested if the last month is not indicative of normal business. The participant shall provide documentation within ten working days of the written request from PROMISE JOBS.

f. Distance learning. When a participant is involved in a distance-learning program, PROMISE JOBS will accept the documentation issued by the distance-learning institution verifying that the student participated in the sessions.

(1) Documentation may include the attendance records or log-in and log-out records available online or in an electronic format. Documentation may also be obtained through an agreement with a support agency that monitors the student's actual participation.

(2) The participant is responsible for providing the documentation within ten calendar days following the end of each month unless the institution provides the documentation to PROMISE JOBS within this time frame.

g. Failure to provide required documentation or verification. Participants who fail to provide documentation or verification as described in this subrule after written notification from PROMISE JOBS as described in subrule 93.10(1) shall be considered to have chosen the LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

93.10(3) *Verification of problems or barriers.* Participants may be required to provide written verification or supporting documentation of reported problems or barriers to participation.

a. Medical documentation. A participant shall secure and provide written documentation signed by a qualified medical or mental health professional to verify a claimed illness or disability within ten calendar days of a written request by PROMISE JOBS. This time limit may be extended due to individual circumstances, such as the need to obtain an updated evaluation. Acceptable verification includes a form prescribed by the department or other statement signed by a qualified medical or mental health professional to verify the existence of an illness, disability, or limitation. If the tenth calendar day falls on a weekend or state holiday, the participant has until the next working day.

b. Other documentation. A participant shall secure and provide written documentation to verify a claimed problem or barrier to participation within ten calendar days of a written request by PROMISE JOBS. Acceptable documentation may include a signed statement from a third party with knowledge of the problem or barrier. If the tenth calendar day falls on a weekend or state holiday, the participant has until the next working day.

c. Failure to verify problem or barrier or to provide medical documentation. Failure to provide verification of a problem or barrier or to provide medical documentation as described in subrule 93.10(3) does not directly result in the imposition of an LBP. Examples of actions that do not directly result in LBP include but are not limited to failure to provide a form prescribed by the department or other statement from a medical or mental health professional to verify the existence of an illness or disability, or a statement from a third party with knowledge about the problem or barrier.

(1) Participants who claim an inability to participate on a full-time basis due to a claimed problem or barrier and who fail to provide verification or medical documentation upon written request may be required to renegotiate the FIA to include full-time participation in FIA activities. Failure to renegotiate the FIA may result in an LBP. Procedures in subrule 93.4(5) and rules 441—93.13(239B) and 441—93.14(239B) shall apply.

(2) Participants who claim a problem or barrier caused their failure to participate for the full number of hours identified in their FIA and who fail to provide verification of the problem or barrier or medical documentation upon written request may not be excused for the failure to participate. If the failure is not excused, the failure will result in imposition of an LBP if the failure meets the criteria described at subrule 93.13(2).

441—93.11(239B) Supportive payments. In order to facilitate successful participation, PROMISE JOBS may provide payment for the expenses listed in this rule. Upon written request from PROMISE JOBS, participants shall submit a form prescribed by the department, or other acceptable estimate of costs, to initiate payments or change the amount of payment for expenses other than child care.

93.11(1) *Eligibility.* Participants are eligible for supportive payments needed for participation in activities in their FIA, subject to the limits in this chapter.

a. Applicants in an LBP who must complete significant contact with or action in regard to PROMISE JOBS for FIP eligibility to be considered as described in paragraphs 441—41.5(7)*"a"* and *"d"* are eligible for expense payments for the 20 hours of activity. However, PROMISE JOBS services and supportive payments are only available when it appears the applicant will otherwise be eligible for FIP.

b. Applicants who have received 60 months of FIP are eligible for PROMISE JOBS services and payments under the circumstances described in 441—subrule 41.11(3).

93.11(2) *Child care.* Payments for child care shall be issued through the child care assistance program as described in 441—Chapter 170.

a. Payment shall be provided for child care if:

(1) Care is needed for participation in any PROMISE JOBS activity other than orientation or assessment activities that occur before the FIA is signed,

(2) Payment is not specifically prohibited elsewhere in these rules, and

(3) Payment is not available from another source.

b. Payment shall be issued to the child care provider after the service has been received, as described in 441—subrule 170.4(7).

93.11(3) *Transportation.* Participants may receive a transportation payment for each day that transportation is needed for participation in a PROMISE JOBS activity. Transportation payments shall be determined according to the circumstances of each participant. If necessary, payments shall cover transportation for the participant and child from the participant's home to the child care provider and to the PROMISE JOBS site or activity.

a. Exclusions.

(1) A transportation payment is not available for orientation or for assessment activities that occur before the FIA is signed.

(2) A transportation payment is not available for employment. Participants who are employed shall be entitled to the earned income deduction described at 441—paragraph 41.8(2)*"a"* to cover transportation costs associated with employment.

b. Rate of payment. Payments shall not exceed the rate that the provider would charge a private individual.

(1) Public transportation. For those who use public transportation, the payment shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

(2) Private transportation. For participants who use a privately owned motor vehicle or who hire private transportation, the transportation payment shall be based on a formula that uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment multiplied by the participant's anticipated daily round-trip miles and then multiplied by the current state employee reimbursement rate.

c. Special transportation needs. Participants who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation payment when documented actual transportation costs are greater than transportation payments provided under these rules and transportation is not available from another source.

(1) Medical evidence. To be eligible for a supplemental payment, the participant must provide medical evidence of the need for an alternate mode of transportation due to disability or incapacity. The evidence must be from a qualified medical or mental health professional, the state rehabilitation agency, or proof that the participant receives SSI or social security benefits due to disability or blindness.

(2) Payment rates. Actual costs of transportation by a public or private agency shall be allowed. Costs of transportation provided by private automobile shall be allowed as described in subparagraph 93.11(3)*"b"*(2).

d. Issuance of payments. The transportation payment shall be issued before the first scheduled day of participation in an activity. For participants in the same activity for more than one month, transportation payments shall be issued before the first day of the month of scheduled participation except as described below.

(1) Payments for the third and subsequent months of an ongoing activity shall not be authorized before receipt of time and attendance verification, as described in subrule 93.10(2), for the month before the issuance month. Example: A transportation payment for June, normally issued after May 15 to be available to the participant by June 1, will not be authorized until time and attendance verification for the month of April has been received in the PROMISE JOBS office.

(2) The amounts of payments for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days that represents a difference between the number of scheduled days of activity in the month before the issuance month and the number of actual days attended in that month. Example: A transportation payment is issued in May based on 16 scheduled days of participation for June. The participant attends only 14 days of the activity. When preparing to issue the August transportation allowance, the worker subtracts two days from the normally scheduled August activities to calculate the payment. If ten days of participation are scheduled, the transportation payment issued in July for August is calculated using eight days.

(3) Because adjustment for actual attendance is not possible in the last two months of an ongoing activity, transportation payments for the last two months of an ongoing activity will be subject to transportation overpayment provisions of subrule 93.12(1).

EXCEPTION: A transportation overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

93.11(4) *Training and education expenses.* Participants shall use PROMISE JOBS payments that they receive to pay authorized expenses.

a. Classroom training. PROMISE JOBS payments for classroom training are limited as follows:

(1) Tuition payments for high school or high school equivalency completion, ABE, ESL, or short-term training programs of 29 weeks or less shall not exceed the rate charged by the Iowa community college located nearest the participant's residence that offers a course or program comparable to the one in which the participant plans to enroll. If an Iowa community college does not offer a comparable program, the maximum tuition rate payment shall not exceed the Iowa resident rate charged by the out-of-state area school located nearest the participant's residence.

(2) A standard payment for actual costs of basic school supplies once per term shall be allowed for those participants who request it. Actual costs must be verified by receipts.

(3) A per diem payment of $10 for living costs during a practicum shall be allowed when the practicum is required by the curriculum of the training facility, would require a round-trip commuting time of three hours or more per day, and is not available closer to the participant's home. If practicum earnings or other assistance is available to meet practicum living costs, no payment shall be made.

(4) Payments may be authorized to meet the costs of travel required for certification and testing, not to exceed the transportation payment as described in subrule 93.11(3) and the current state employee reimbursement rate for meals and lodging.

(5) No payment shall be made for jewelry, pictures, rental of graduation gowns, elective courses that require expenditures for field trips or special equipment, such as photography or art supplies, or other items that are not required to complete training for a vocational goal.

b. Retroactive payments. Retroactive payments for transportation and allowable direct education costs shall be allowed only under the following conditions:

(1) If plan approval or removal from a waiting list occurs after the start of the term due to administrative delay or worker delay, payments shall be approved retroactive to the start of the term for which the plan is approved or removal from the waiting list is authorized. If the participant has already paid costs with private resources, the participant shall be reimbursed.

(2) If plan approval is delayed due to the fault of the participant, payment eligibility shall begin with the first day of the month during which the plan is approved or the month in which the participant is removed from a waiting list as described in paragraph 93.4(4)*"e,"* whichever is later. In this instance, there shall be no reimbursement for costs already paid by the participant.

c. Receipts. Participants shall furnish receipts for expenditures that they pay, except for transportation payments. Failure to provide receipts will preclude additional payments. Receipts may be requested for payments paid directly to the training provider if the PROMISE JOBS worker determines it is appropriate.

d. Payments directly to facility. PROMISE JOBS is authorized to provide payment for expenses allowable under these rules to the training facility for the educational expenses of tuition and fees and books and supplies that are provided by the facility and billed to the PROMISE JOBS participant. Payment may also be made to the participant in those situations where payment to the participant is determined to be appropriate by the PROMISE JOBS worker.

93.11(5) *Other expenses.*

a. Birth certificates. PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the participant to complete the workforce development registration process described in subrule 93.3(6).

b. Resources for examination. When an examination is required and other resources are not available to meet the expense of the examination, the PROMISE JOBS worker shall authorize the examination and submit a claim for payment on a form prescribed by the department.

c. Workforce Innovation and Opportunity Act. PROMISE JOBS funds may also be used to pay expenses for PROMISE JOBS participants enrolled in federal Workforce Innovation and Opportunity Act (WIOA) as amended to August 1, 2024, funded services or activities when those expenses are allowable under these rules.

441—93.12(239B) Recovery of PROMISE JOBS expense payments. When an applicant, a participant, or a provider receives an expense payment for transportation or other supportive expenses that is greater than allowed under these rules or receives a duplicate payment of an expense payment, an overpayment is considered to have occurred and recovery is required. There are two categories of PROMISE JOBS expense payments subject to recovery: (1) transportation, and (2) other supportive expense payments.

93.12(1) Payment for transportation will be considered an overpayment subject to recovery in the following instances:

a. When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation payment will be considered an overpayment. Recovery of the overpayment will be initiated when it becomes clear that subsequent participation in the activity is not possible.

b. When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation payment period of an activity that has not been used for payment adjustment as described in paragraph 93.11(3)*"d,"* an overpayment is considered to have occurred. The amount to recover will be the difference between the amount for the actual number of days attended and the amount for 75 percent of normally scheduled days.

93.12(2) The PROMISE JOBS worker shall make the referral to the department of inspections, appeals, and licensing by recording the overpayment in the overpayment recovery system.

93.12(3) The department of inspections, appeals, and licensing shall notify the participant or the provider when it is determined that an overpayment exists as described in 441—paragraph 7.4(3)*"h."*

a. Notification shall include the amount, date, and reason for the overpayment. Upon the participant's request, PROMISE JOBS shall provide additional information regarding the computation of the overpayment.

b. The participant may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—paragraph 7.4(3)*"h."*

93.12(4) A PROMISE JOBS overpayment shall be recovered through repayment in part or in full. Repayments received by PROMISE JOBS shall be transmitted to the department.

a. Overpayments of child care assistance issued for July 1999 and any month thereafter are subject to recovery rules of the child care assistance program set forth in rule 441—170.9(237A).

b. Reserved.

93.12(5) When a participant or a provider offers repayment in part or in full before the end of the 30-day appeal period, PROMISE JOBS or the department's local office will accept the payment. The amount of the voluntary repayment shall not be returned to the participant or provider unless the final decision on the appeal directs the department to do so. If a subsequent appeal request is received, the PROMISE JOBS unit shall notify the department of inspections, appeals, and licensing and shall not accept any further payments on the claim.

93.12(6) When a participant or a provider has been referred to the department of inspections, appeals, and licensing to initiate recovery, the department of inspections, appeals, and licensing shall use the same methods of recovery as are used for the FIP program as described in 481—Chapter 90, except that the FIP grant shall not be reduced to effect recovery without the participant's written permission.

a. When the participant requests grant reduction on a form prescribed by the department, the grant will be reduced for repayment as described in 441—subrule 46.5(1).

b. The department of inspections, appeals, and licensing is authorized to take any reasonable action to effect recovery of provider overpayments, such as but not limited to informal agreements, civil action, or criminal prosecution. However, the department of inspections, appeals, and licensing shall not

take any collection action on a provider overpayment that would jeopardize the participant's continued participation in the PROMISE JOBS program.

441—93.13(239B) Resolution of participation issues. PROMISE JOBS participants who do not carry out the responsibilities of the FIA shall be considered to have chosen the LBP as described in 441—subrule 41.5(7). The participation issues listed in this rule are those that are important for effective functioning in the workplace or training facility and for the completion of the FIA.

93.13(1) *Notification of participation issue.* When participants appear to be choosing an LBP by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder letter as specified in subrule 93.10(1). The written reminder letter shall:

a. Clearly identify the participation issue and the specific action needed to resolve it,

b. Clarify expectations,

c. Attempt to identify barriers to participation that should be addressed in the FIA,

d. Explain the consequences of the LBP, and

e. Offer supervisory intervention.

93.13(2) *Participation issues.* Actions that may cause participants to be considered as having chosen the LBP when the participant does not have a problem or barrier to participation as defined at paragraph 93.4(5)*"a"* or rule 441—93.14(239B) are:

a. Tardiness. Participants who, for a second time after PROMISE JOBS sends one written reminder letter at the first occurrence, are more than 15 minutes late to a scheduled FIA activity without good cause or a barrier to participation.

b. Failure to attend scheduled activities. Participants who do not, for a second time after PROMISE JOBS sends one written reminder letter at the first occurrence, appear for scheduled appointments, participate in assessment activities, including taking required vocational or aptitude tests, complete or provide required forms other than those described at subrule 93.10(3) or are absent from activities designated in the FIA.

c. Absence from work experience. Participants who do not, for a second time after PROMISE JOBS sends one written reminder letter at the first occurrence, notify work experience sponsors or the PROMISE JOBS worker of an absence within one hour of the time at which they are due to appear.

d. Disruptive behavior. Participants who exhibit disruptive behavior for a second time after PROMISE JOBS sends one written reminder letter at the first occurrence. "Disruptive behavior" means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

e. Unsatisfactory performance or participation. Participants whose performance or participation in an FIA activity continues to be unsatisfactory after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

f. Physical threats. Participants who make physical threats to other participants or staff and have not provided written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

(1) "Physical threat" means having a dangerous weapon in one's possession and either threatening with or using the weapon or committing assault.

(2) The documentation must verify that the act was caused by either a temporary problem or a serious problem or barrier that needs to be included in the FIA. The documentation must also provide reasonable assurance that the threatening behavior will not occur again.

g. Accepting work experience assignments. Participants who do not accept work experience assignments when the work experience is part of the FIA and do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

h. Work experience interviews. Participants who do not appear for work experience interviews for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence.

i. Employment and other work activity issues. Participants who do not follow up on job referrals, who refuse offers of employment or other work activity, who reduce hours of employment or other work activity, who terminate employment or other work activity, or who are discharged from employment or other work activity.

(1) At the time of the occurrence, PROMISE JOBS shall send a letter to the participant. The letter shall give the participant an opportunity to resolve the issue by accepting a previously refused employment offer if available, returning to previously terminated employment, if available, obtaining comparable employment, or demonstrating a problem or barrier that caused the failure.

(2) Reserved.

j. Failure to secure child care. Participants who do not secure adequate child care when registered or licensed facilities are available after PROMISE JOBS sends one written reminder and when PROMISE JOBS has provided the participant with resources for locating adequate child care.

k. Inappropriate use of funds. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts and who do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter.

l. Failure to follow training plan. Education participants who do not follow the requirements of a training plan in the FIA as described in rule 441—93.8(239B).

m. Failure to renegotiate the FIA. When a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA because the participant has not attained self-sufficiency by the date established in the FIA, after PROMISE JOBS sends one written reminder letter, an LBP shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the FIA.

93.13(3) *Choosing an LBP.*

a. Before determining that a participant has chosen the LBP due to a potential participation issue, the PROMISE JOBS worker shall make every effort to negotiate a solution and determine:

(1) Whether the participant has a problem that provides good cause for the participation issue as described in rule 441—93.14(239B). If so, the participant shall be encouraged to take actions to fulfill the FIA.

(2) Whether participant circumstances indicate that a barrier to participation exists as described in subrule 93.4(5). If so, the FIA shall be negotiated to address the barrier.

b. The participant may be considered to have chosen the LBP when all of the following occur:

(1) The participant is notified of a participation issue as described in subrule 93.13(1);

(2) The participant does not resolve the participation issue;

(3) The participant does not present acceptable evidence of a problem providing good cause for the issue as described in rule 441—93.14(239B); and

(4) The participant does not present acceptable evidence of a barrier to participation as described in subrule 93.4(5) or fails to renegotiate the FIA to address the identified barrier.

c. If the resolution process does not lead to fulfillment of the FIA, the case shall be referred for review.

(1) The department retains control and oversees review procedures even when another agency is contracted with to provide PROMISE JOBS services.

(2) Reserved.

d. If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen the LBP and the notice of decision will be initiated. The notice of decision will inform the participant of:

(1) The action needed to reconsider the LBP as described in 441—subparagraph 41.5(7)*"d"*(1).

(2) Appeal rights under the LBP are described in rule 441—93.15(239B).

441—93.14(239B) Problems that may provide good cause for participation issues.

93.14(1) *Problems leading to less than full participation.* Problems affecting participation shall be considered to be of a temporary or incidental nature when the participation can easily be resumed. The following problems may provide good cause for participation of less than the full number of hours

identified in the FIA. PROMISE JOBS may require the participant to provide verification of the problem or barrier as described in subrule 93.10(3):

a. Illness of the participant. When a participant is ill more than three consecutive days or if illness is habitual, the PROMISE JOBS worker may require medical documentation of the illness.

b. Illness of family member. When a participant is required in the home due to illness of another family member, the PROMISE JOBS worker may require medical documentation.

c. Family emergency, using reasonable standards of an employer.

d. Bad weather, using reasonable standards of an employer.

e. Absence or tardiness due to participant's or spouse's job interview. When possible, the participant shall provide notice of the interview at least 24 hours in advance including the name and address of the employer conducting the interview. When 24-hour notice is not possible, notice must be given as soon as possible and before the interview.

f. Leave due to the birth of a child. When a child is born after referral, necessary absence shall be determined in accordance with the Family Leave Act of 1993 as amended to August 1, 2024.

g. Court appearance.

h. Attendance at school functions of the participant's children or children in the participant's household.

i. Attendance at required meetings with the department or PROMISE JOBS.

j. Absence due to up to ten holidays per year.

(1) The participant must normally have been scheduled to work, or participate in an unpaid work activity on the given day and the work site or facility is closed due to a holiday, or open but the participant is allowed to take the participant's normally scheduled hours off on a different day.

(2) The holidays included are New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving, the day after Thanksgiving, and Christmas.

93.14(2) *Problems leading to refusing or quitting a job or limiting or reducing hours.* The following problems may provide good cause for participation issues of refusing or quitting a job or limiting or reducing hours. PROMISE JOBS may require the participant to provide verification of the problem or barrier as described in subrule 93.10(3):

a. Required travel time from home to the job or available work experience or unpaid community service site exceeds one hour each way. This includes additional travel time necessary to take a child to a child care provider.

b. Except as described in 441—subrule 41.6(4), work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A, commonly known as the Taft-Hartley Act) as amended to August 1, 2024, or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160) as amended to August 1, 2024.

c. The work site violates applicable state or federal health and safety standards or workers' compensation insurance is not provided.

d. The job is contrary to the participant's religious or ethical beliefs.

e. The participant is required to join, resign from or refrain from joining a legitimate labor organization.

f. Work requirements are beyond the mental or physical capabilities as documented by medical evidence or other reliable sources.

g. Discrimination by an employer based on age, race, sex, color, disability, religion, national origin or political beliefs.

h. Work demands or conditions render continued employment unreasonable, such as working without being paid on schedule.

i. Circumstances beyond the control of the participant, such as interruption of regular mail delivery or other disruptions of services.

j. Employment change or termination is part of the FIA.

k. Job does not pay at least the minimum amount customary for the same work in the community.

l. The participant terminates employment in order to take a better-paying job, even though hours of the new job may be less than those in the previous job.

m. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include SNAP benefits and in-kind income.

n. The employment changes substantially from the terms of hire, such as a change in work hours or work shift or a decrease in pay rate.

93.14(3) *Other problems.* The PROMISE JOBS worker may identify circumstances that could negatively impact the participant's achievement of self-sufficiency that are not described in subrule 93.14(1) or 93.14(2). When this occurs, the case shall be referred to the department for a determination as to whether the problems are acceptable reasons for:

a. Not participating,

b. Refusing or quitting a job, or

c. Discharge from employment due to misconduct as described in paragraph 93.13(2)*"i."*

441—93.15(239B) Right of appeal. In accordance with 441—Chapter 7, each applicant or participant is entitled to appeal and to be granted a hearing over disputes regarding: (1) services being received; (2) services that have been requested and denied, reduced, canceled, or inadequately provided; and (3) overpayments of PROMISE JOBS expense payments.

93.15(1) *Informal resolution process.* When there is a disagreement between the participant and the immediate PROMISE JOBS worker regarding the participant's FIA or participation in PROMISE JOBS components, the participant may request an interview with the supervisor and a decision on the dispute. The supervisor shall schedule a face-to-face interview with the participant within 7 days and issue a decision in writing within 14 days of the participant's request.

93.15(2) *Appeal on the content of the FIA.* A participant shall have the right to appeal the content of the FIA when the informal resolution process described at subrule 93.15(1) does not resolve a disagreement between the participant and the PROMISE JOBS worker.

93.15(3) *Appeal of an alleged violation of PROMISE JOBS program policy.* Participants shall have the right to file a written appeal concerning any alleged violation of a PROMISE JOBS program policy that is imposed as a condition of participation. PROMISE JOBS shall provide the participant with written documentation that specifies the participation requirement in dispute.

93.15(4) *Appeal rights under the LBP.* A participant has the right to appeal the establishment of the LBP only once, at the time the department issues the timely and adequate notice that establishes the LBP. However, when the reason for the appeal is based on incorrect grant computation, an error in determining the eligible group, or another worker error, a hearing shall be granted when the appeal otherwise meets the criteria for hearing.

93.15(5) *Recovery of assistance when a new LBP is established.* Assistance issued pending the final decision of the appeal is not subject to recovery when a new LBP period is established. A new LBP period shall be established when the department is affirmed in a timely appeal of the establishment of the LBP. All of the following conditions shall exist:

a. The appeal is filed either:

(1) Before the effective date of the intended action on the notice of decision or notice of action establishing the beginning date of the LBP, or

(2) Within ten days from the date on which a notice establishing the beginning date of the LBP is received. The date on which notice is received is considered to be five days after the date on the notice, unless the intended recipient shows that the recipient did not receive the notice within the five-day period.

b. Assistance is continued pending the final decision of the appeal.

c. The department's action is affirmed.

93.15(6) *Request for a hearing on work conditions or availability of workers' compensation coverage.* A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions, the availability of workers' compensation coverage or the wage rate used in determining hours of work experience program participation.

a. When any involved party is dissatisfied with the department's final decision, the dissatisfied party shall be informed of the right to appeal the issue to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, within 20 days of receipt of the decision. The department may assist with the appeal upon request.

b. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery day.

c. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

441—93.16(239B) Resolution of an LBP.

93.16(1) *Resolution process for a first LBP.* For participants who choose a first LBP, the notice of decision shall inform the participant of the action needed to reconsider the LBP as described in 441—subparagraph 41.5(7)*"d"*(1).

a. The notice of decision establishing a first LBP will inform the FIP participant that the participant may reconsider at any time from the date timely and adequate notice is issued establishing the LBP. The notice of decision will inform the participant that the participant shall contact the department or appropriate PROMISE JOBS office to reconsider the LBP.

b. When the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to begin or resume development of the FIA as described elsewhere in these rules.

c. When the FIA is signed, the PROMISE JOBS worker shall notify the department and the LBP shall be terminated. FIP benefits shall be effective as described in 441—subparagraph 41.5(7)*"d"*(1).

93.16(2) *Resolution process for a subsequent LBP.* The notice of decision establishing a subsequent LBP will inform the FIP participant of the six-month ineligibility period and that the participant may reconsider at any time following the six-month ineligibility period. To reconsider, the participant must complete significant contact with or action in regard to the PROMISE JOBS program as described in 441—subparagraph 41.5(7)*"e"*(3).

a. When the six-month ineligibility period ends and the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to sign a new or updated FIA and to begin significant action as described in 441—subparagraph 41.5(7)*"e"*(3).

b. When the FIA is signed and the participant has satisfactorily completed the significant action, the PROMISE JOBS worker shall notify the department and the LBP shall be terminated. FIP benefits shall be effective as described in 441—subparagraph 41.5(7)*"e"*(3).

441—93.17(239B) Worker displacement grievance procedure. The PROMISE JOBS program shall provide a grievance procedure to address and resolve public complaints regarding the displacement of regular workers with program participants in a work experience placement.

93.17(1) The procedure shall provide that:

a. Complaints must be filed in writing and received by the PROMISE JOBS service provider within one year of the alleged violation.

b. A representative of the PROMISE JOBS service provider must schedule a face-to-face interview with the complainant within 7 days of the date the complaint is filed, to provide the opportunity for informal resolution of the complaint.

c. Written notice of the location, date and time of the face-to-face interview must be provided.

d. An opportunity must be provided to present evidence at the face-to-face interview.

e. The representative of the PROMISE JOBS service provider shall issue a decision in writing within 14 days of the date a complaint is filed.

f. A written explanation must be provided to all involved parties of the right to file a written appeal, according to 441—Chapter 7, if the opportunity for informal resolution is declined, if a party receives an adverse decision from the PROMISE JOBS service provider, or if there is no decision within the 14-day period.

(1) To be considered, an appeal must be filed with the department within 10 days of the mailing date of the adverse decision or within 24 days of the date a complaint is filed.

(2) An appeal hearing will not be granted until informal resolution procedures have been exhausted, unless a decision has not been issued within 24 days of the complaint filing date.

93.17(2) The department will issue a final decision within 90 days of the date the complaint was filed with the PROMISE JOBS service provider.

93.17(3) Any dissatisfied party will be informed of the right to appeal the decision of the department to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, within 20 days of the receipt of the department's final decision.

a. For the purposes of this rule, the department's final decision will be considered received the second day after the date that the written decision was mailed unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery date.

b. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review as provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.17(4) Upon notice of a complaint or grievance, the PROMISE JOBS office must provide the complaining party with a copy of the grievance procedures, notification of the right to file a formal complaint and instruction on how to file a complaint.

93.17(5) Upon filing a complaint, and at each stage thereafter, each complainant must be notified in writing of the next step in the complaint procedure.

93.17(6) The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation must be kept confidential to the extent possible, consistent with due process and a fair determination of the issues.

93.17(7) All employers who participate in the PROMISE JOBS program shall provide assurances that all regular employees are aware of this grievance procedure.

These rules are intended to implement Iowa Code sections 239B.17 through 239B.22.

ARC 8548C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to child support promoting opportunities for parents program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 94, "Child Support Promoting Opportunities for Parents Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 252B.3(5).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 252B.3(5).

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter provides a mechanism for the satisfaction of accrued support debt by assisting parents in overcoming the barriers that interfere with fulfilling their obligations to their children. This chapter was previously 441—Chapter 100 and has been moved to 441—Chapter 94.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 441—Chapter 94:

CHAPTER 94
CHILD SUPPORT PROMOTING OPPORTUNITIES FOR PARENTS PROGRAM

441—94.1(252B) Definitions.

"Assigned support arrearages" means support arrearages for which all rights have been and will remain assigned to the state of Iowa.

"Designated provider" means any project approved in whole or in part by child support services and approved by the department to assist parents in overcoming the barriers that interfere with fulfilling obligations to their children. Each project must have a project plan approved by the department.

"Incentives" means satisfaction of support obligations and bypass of select enforcement tools, such as license sanction, administrative levy, and contempt.

"Participant" means a person who receives services or incentives through a project.

"Periodic support payment" means the total support payment due in each time period in accordance with the established support obligation. If no current support is due, the periodic support payment is equivalent to the last current support amount as would be ordered under 441—Chapter 98.

"Project plan" means the written policies, procedures, eligibility criteria and other components as described at subrule 94.3(2).

441—94.2(252B) Purpose and incentives. Child support services may partner with community providers and resources to offer incentives to participants to assist in overcoming barriers to fulfilling their obligations and to encourage participants' completion of the project. The available incentives include the following:

94.2(1) *Satisfaction of the assigned support arrearages.*

a. A participant will be granted a partial satisfaction of the assigned support arrearages that are and that will remain owed by that participant to the state after that participant's successful completion of the project and payment of that participant's periodic support payments. Satisfactions granted under this subrule will apply only to those cases for which periodic support payment is credited.

b. Each satisfaction will be an amount equal to a percentage of that participant's support arrearages, which are and which will remain owed to the state, according to the following schedule:

(1) A one-time satisfaction after six consecutive months from the participant's completion of the project. The amount of satisfaction will be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 50 percent of the amount owed to the state.
2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.
3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 30 percent of the amount owed to the state.
4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.

5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 10 percent of the amount owed to the state.

6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

(2) A one-time satisfaction after 12 consecutive months from the participant's completion of the project. The amount of satisfaction will be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 100 percent of the amount owed to the state.

2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 80 percent of the amount owed to the state.

3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 60 percent of the amount owed to the state.

4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.

5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.

6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

c. A participant subject to an income withholding order will be eligible for the satisfaction in this subrule if the sole reason for ineligibility is a disparity between the schedules of the participant's pay date and the scheduled date the payment is due.

d. A participant will be eligible for a satisfaction under this subrule if the participant is no longer a participant but has continued to pay the participant's periodic support payment without interruption.

94.2(2) *Enforcement processes.* Child support services may bypass select enforcement tools if the participant is actively in the project.

441—94.3(252B) Establishment of designated providers. Child support services may initiate a request for project plans to become designated providers.

94.3(1) *Contents of a request for project plans.* The request for project plans will contain the requirements for contents of the project plan and any other parameter for the specific project being advertised. The request will also contain a deadline by which project plans must be submitted to the department.

94.3(2) *Contents of project plans.* Each project will have and maintain a project plan. At a minimum, the project plan will contain or address the following:

a. The applicant's experience and success at integrating collaborations and services essential to the project.

b. The geographic area to be served and community need for projected services.

c. The projected number of participants to be served and the criteria to be used for the selection and termination of participants.

d. The specific parenting curriculum to be used. The curriculum must be well-established, have a track record of use and be field-tested.

e. A description of the components of the curriculum. The components of the curriculum should include personal development, responsible parenting, parenting skills, financial responsibilities, communication skills, and domestic violence prevention.

f. The schedule, location, hours of instruction and format for administering the curriculum.

g. A description of the organization and identification of staff responsible for delivering the curriculum. The staff should have experience in group facilitation and be certified trainers in the curriculum.

h. A clear explanation of how the curriculum and services will be monitored and evaluated, including how the participants will be tracked and what data will be collected.

i. Project duration.

94.3(3) *Amendments to project plan.* Projects may submit proposed amendments to their project plan in writing to the department. The department will have the option, after review, of approving or disapproving all proposed amendments to the project plan.

441—94.4(252B) Selection of designated providers. The department will have sole authority to select designated providers. The department will select which of the project plans received on or before the deadline date will be granted the status of designated providers. The selection of designated providers will be based upon the content of the project plan and must include the following:

1. Applicant's experience.
2. Geographic area selected and community need for the project.
3. Participants to be served and criteria to be used to select participants and terminate their participation.
4. The parenting curriculum to be used.
5. A description of the components of the curriculum.
6. The schedule, location, hours of instruction and format for administering the curriculum.
7. A description of the organization and identification of staff.
8. An explanation of monitoring and evaluation.
9. Project duration.

441—94.5(252B) Termination of designated providers. The department may immediately terminate child support services' participation with a designated provider if the designated provider is not fulfilling the terms of its project plan or the designated provider is not fulfilling the terms for child support services' participation in the project plan.

441—94.6(252B) Reports and records.

94.6(1) *Reports.* Designated providers established under these rules must report to child support services at least monthly unless otherwise mandated by the project plan. These reports must include the following:

a. Attendance documentation with the names of participants served.
b. Signed voluntary consent of participants seeking incentives.
c. Certification of participants completing the curriculum.
d. Other information as specified in the project plan.

94.6(2) *Records retention.* Designated providers must retain all records as necessary to meet the requirements of these rules.

441—94.7(252B) Receipt of incentives. Participants receiving incentives under these rules may continue to receive the incentives after the termination of these rules or after they are no longer participants only under subrule 94.2(1). Subrule 94.2(1) will apply to a participant or former participant for the full time period allowed in that subrule.

441—94.8(17A) Right of appeal. Child support services actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code section 252B.3(5) and chapter 17A.

ARC 8559C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to child support services and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 95, "Collections," and to adopt a new Chapter 95, "Child Support Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 252B.3(3) and 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 252B.15, 252B.14, 252D.17, 252B.4, 252B.5, 252B.6, 252B.3, 252B.7, and 598.21C; 42 U.S.C. Section 657; and 45 CFR Sections 302.32, 302.38, 302.51, 302.51(b), 302.52, 303.100, 303.72, 303.11, 302.33 and 303.2.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. These proposed rules are intended to structure and define the essential functions of Child Support Services and are mandated by the Iowa Code.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
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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 441—Chapter 95 and adopt the following **new** chapter in lieu thereof:

TITLE X
SUPPORT RECOVERY

CHAPTER 95
CHILD SUPPORT SERVICES

441—95.1(252B) Definitions.

"Caretaker" means a custodial parent, relative, or guardian whose needs are included in an assistance grant paid according to Iowa Code chapter 239B, who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

"Current support" means those payments received in the amount, manner, and frequency as specified by an order for support and that are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22.

"Date of collection" means the date that a support payment is received by the department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.

"Dependent child" means a person who meets the eligibility criteria established in Iowa Code chapter 234 or 239B, and whose support is required by Iowa Code chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598 or 600B, and any other comparable chapter.

"Obligee" means any person or entity entitled to child support or medical support for a child.

"Obligor" means a parent, relative, or guardian or any other designated person who is legally liable for the support of a child or a child's caretaker.

"Prepayment" means payment toward an ongoing support obligation when the payment exceeds the current support obligation and amounts due for past months are fully paid.

"Public assistance" means assistance provided according to Iowa Code chapter 239B or 249A, the cost of foster care provided by the department according to Iowa Code chapter 234, or assistance provided under comparable laws of other states.

"Responsible person" means a parent, relative, or guardian or any other designated person who is or may be declared to be legally liable for the support of a child or a child's caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the Iowa Supreme Court in accordance with Iowa Code section 598.21B, this means the person from whom support is sought.

"Support" means child support or medical support or both for purposes of establishing, modifying, or enforcing orders and means spousal support for purposes of enforcing an order.

441—95.2(252B) Child support eligibility and services.

95.2(1) *Public assistance cases.* Child support services will provide paternity establishment and support establishment, modification and enforcement services as appropriate, under federal and state laws and rules for children and families referred to child support services who have applied for or are receiving public assistance. Referrals under this subrule may be made by the family investment program (FIP), the Medicaid program, the foster care program, or agencies of other states providing child support services under Title IV-D of the Social Security Act as amended to August 1, 2024, for recipients of public assistance.

95.2(2) *Nonpublic assistance cases.* The same services provided by child support services for public assistance cases will also be made available to any person not otherwise eligible for public assistance. A person who is not on public assistance requesting services under this chapter will complete and submit to child support services a form prescribed by the department, or an electronic version of such application, for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of a child's parents. Child support services will not require an application from the following:

a. Persons not receiving public assistance for whom an agency of another state providing Title IV-D child support services has requested services.

b. Persons for whom a foreign country as defined in Iowa Code chapter 252K has requested services.

c. Persons who are eligible for continued services upon termination of assistance under the family investment program or Medicaid.

95.2(3) *Services available.* Except as provided by separate rule, child support services will provide the same services to persons receiving public assistance and persons not receiving public assistance. Child support services will determine the appropriate enforcement procedure to be used. The services are limited to the establishment of paternity, the establishment and enforcement of child support obligations and medical support obligations, and the enforcement of spousal support orders if the spouse is the custodial parent of a child for whom the department is enforcing a child support or medical support order.

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor will be credited as the required support obligation for the month in which they are collected. Any excess will be credited as delinquent payments, will be applied to the immediately preceding month, and then will be applied to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets will be credited according to rule 441—98.30(252B).

The date of collection will be determined as follows:

95.3(1) *Payments from income withholding.* Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection will be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department will notify income providers of the requirement to report the date income was withheld and will provide a form prescribed by the department to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection will be used to determine support distributions. When the date of collection is not reported, support distributions

will initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient will be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98 includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider. When the income provider does not document the months for which the sums are withheld, the amounts will initially be distributed based on the date of the check. If documentation is subsequently provided, any additional payments due the recipient will be issued.

95.3(2) *Payments from state or political subdivisions.* Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department will be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions will be initially issued based on the date of the state's or political subdivision's check. If proof of the date of collection is subsequently provided, any additional payments due the recipient will be issued.

95.3(3) *Additional payments.* An additional payment in the month that is received within five calendar days prior to the end of the month will be considered collected in the next month if:

a. CSC is notified or otherwise becomes aware that the payment is for the next month, and

b. Support for the current month is fully paid.

441—95.4(252B) Prepayment of support. Prepayment that is due to the obligee will be sent to the obligee upon receipt by the department and will be credited as payment of future months' support. Prepayment that is due the state will be distributed as if it were received in the month when due. Support is prepaid when amounts have been collected that fully satisfy the ongoing support obligation for the current month and all past months.

441—95.5(252B) Lump sum settlement.

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments will be negotiated in conjunction with child support services. Child support services will be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due will be made in accordance with 45 CFR Section 302.51 (as amended to August 1, 2024). The department may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt if the waiver will facilitate the collection of the support debt.

95.5(2) Child support services is responsible for the determination of the department's entitlement to all or any of the lump sum payment in a paternity action.

441—95.6(17A) Appeals. Nonreceipt of support collected by the department that is to be paid to the obligee may be appealed pursuant to the procedures provided in this rule if the obligee claims that the payment was credited to the incorrect month in accordance with subrules 95.3(1), 95.3(2), and 95.3(3).

95.6(1) *Contact.* Obligees who believe they have not received all or part of a support payment to which they are entitled in accordance with subrules 95.3(1), 95.3(2), and 95.3(3) must first contact a customer service representative and indicate that they have not received the payment.

a. An obligee may contact a customer service representative by telephone or in writing.

b. The department will acknowledge this contact in writing, indicating the months at issue.

95.6(2) *Written decision.* Within 30 days of the contact, the department will issue a written decision on all contested support distributions based on the date of collection.

95.6(3) *Initiation of appeal.* If the department denies some or all support payments that are claimed based on the date of collection, the obligee may initiate an administrative appeal.

a. To initiate an administrative appeal, the obligee will make a written request to child support services indicating an intent to appeal.

b. The time limit for initiating an administrative appeal is governed by 441—subrule 7.4(3). The time limit provided in 441—subrule 7.4(3) will start with the date that a written decision as required by subrule 95.6(2) is issued.

c. If no written decision has been issued after 30 days, the obligee may appeal the failure to issue a written decision. The appeal may be initiated at any time after 30 days and before a written decision is issued.

95.6(4) *Limitation of appeals.* Appeals will be limited to claims based on child support received by the department during the nine-month period before the month in which the appeal is initiated.

95.6(5) *Appeal process.* Except as specifically provided in this rule, administrative appeals are governed by 441—Chapter 7.

95.6(6) *Appeal issue.* The issue in appeals held pursuant to these procedures will be limited to the obligee's entitlement to a support payment that has been collected by the department.

441—95.7(252B) Termination of services.

95.7(1) *Case closure criteria.*

a. Child support services may terminate services when a case meets at least one of the following case closure criteria and child support services maintains supporting documentation for the case closure decision in the record:

(1) There is no ongoing support obligation and arrearages are under $500 or unenforceable under state law.

(2) The noncustodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken.

(3) The noncustodial parent is living with the minor child as the primary caregiver, the custodial parent is deceased, and there is no assignment to the state of support or of arrearages that accrued under the support order.

(4) Child support services cannot establish paternity because:

1. The child is at least 18 years old and the statute of limitations bars an action to establish paternity;

2. A genetic test or a court or administrative process has excluded the alleged father and no other alleged father can be identified;

3. Child support services has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or rape or a case in which legal proceedings for adoption are pending; or

4. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by child support services with the recipient of services.

(5) The noncustodial parent's location is unknown and child support services has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR Section 303.3 (as amended to August 1, 2024), all of which have been unsuccessful, within the applicable time frame:

1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

(6) Child support services has determined that, throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no evidence of support potential because the parent has been institutionalized in a psychiatric facility, is incarcerated, or has a medically verified total and permanent disability. Child support services must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

(7) The noncustodial parent's sole income is from supplemental security income (SSI) payments.

(8) The noncustodial parent is a citizen of and lives in a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets and there is no federal or state treaty or reciprocity with the country.

(9) In a case involving child support services to a person who is not a recipient of public assistance, child support services has provided location-only services.

(10) Child support services has received a written or verbal request from the recipient of services to close the case and there is no assignment to the state of support or of arrearages that accrued under the support order.

(11) In a case involving child support services to a recipient of public assistance, there has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.3(6) through 41.6(10) and 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(12) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, child support services has received information that the address in child support services' record is no longer current and child support services is unable to contact or otherwise locate the recipient within 60 days following receipt of this information despite a good-faith effort to contact the recipient through at least two different methods.

(13) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, the recipient of services has failed to cooperate with child support services, which documented the circumstances of the noncooperation, and an action by the recipient of services is essential for the next step in providing services. More information is contained in rule 441—95.11(252B).

(14) Child support services documents failure by the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), has notified child support services that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), has notified child support services that its intergovernmental services are no longer needed.

(17) Another assistance program, including IV-A, IV-E, SNAP, and Medicaid, has referred to child support services a case for which it is inappropriate to establish, enforce, or continue to enforce a child support order and the custodial or noncustodial parent has not applied for child support services.

(18) The case meets any other basis for case closure based upon federal law.

b. Child support services may terminate services when no support or arrearages that accrued under the support order are assigned to the state and the recipient of services requested child support services to close the case to allow the tribal IV-D agency to start providing services under that program.

c. Child support services will close a case and maintain supporting documentation for the case closure decision when the following criteria have been met:

(1) Child support services is notified that the child is eligible for health care services from the Indian Health Service (IHS); and

1. The IV-D case was opened because of a Medicaid referral based solely upon health care services, including the Purchased/Referred Care Program, provided through an Indian health program as defined in 25 U.S.C. Section 1603(12) (as amended to August 1, 2024); and

2. The recipient of services requests that child support services close the case.

(2) Child support services receives instructions for case closure from an initiating agency as defined under 45 CFR Section 301.1 (as amended to August 1, 2024). Within ten working days, child support services will stop the income withholding order or notice and close the intergovernmental IV-D case.

95.7(2) *Case closure notifications.* In cases meeting one of the criteria of subrule 95.7(1), except subparagraph 95.7(1)*"a"*(9), 95.7(1)*"a"*(10), or 95.7(1)*"a"*(11), child support services will send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), in writing 60 calendar days before case closure. The notice will be sent to the recipient of services or the state requesting services at the last-

known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), supplies information that could lead to the establishment of paternity or a support order or enforcement of an order, the case will be kept open.

b. If the case is to be closed because child support services was unable to contact the recipient of services, as provided in subparagraph 95.7(1)*"a"*(12), the case shall be kept open if contact is reestablished with the recipient of services before the effective date of the closure.

c. The recipient of services may request to have child support services reopen the case at a later date if there is a change in circumstances that could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application and paying any applicable fee.

d. If the recipient of services specifically authorizes consent for electronic notifications, child support services may elect to notify the recipient of services electronically of child support services' intent to close the case. Child support services must maintain documentation of the recipient's consent in the case record.

441—95.8(252B) Child support services attorney.

95.8(1) *State's representative.* An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with child support services represents only the state of Iowa. The sole attorney-client relationship for the child support services attorney is between the attorney and the state of Iowa. A private attorney acting under Iowa Code section 252B.6A is not a child support services attorney and is not a party to the action.

95.8(2) *Provision of services.* The special role of the child support services attorney is limited by the attorney-client relationship between the attorney and the state of Iowa. The provision of legal services by the child support services attorney is limited as follows:

a. The child support services attorney will not represent any person or entity other than the state of Iowa in the course of the attorney's employment by or contractual relationship with child support services.

b. Child support services will issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support services and to all parties in a review and adjustment proceeding.

95.8(3) *Communication concerning case circumstances.*

a. Child support services will provide case status information upon written request by any recipient of child support enforcement services or any party under the review and adjustment procedure unless otherwise prohibited by state or federal statute or rules pertaining to confidentiality.

b. All communications with other parties will be directed to those parties personally unless a licensed attorney has entered an appearance or notified child support services in writing that the attorney is representing a party. If any party is represented by counsel, all communications will be directed to counsel for that party.

c. When a party is receiving public assistance, child support services will refer any suspected fraud or questionable FIP expenditures to the appropriate governmental agencies.

441—95.9(252B) Effective date of support. For all original orders established by child support services, the effective date of the support obligation under the orders will be the twentieth day following the date the order is prepared by child support services unless otherwise specified.

441—95.10(252B) Continued services available to canceled FIP or Medicaid recipients. Support services will automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services will not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—Chapter 41 or 75, as appropriate, was valid at the time assistance was canceled

or when one of the reasons for termination of services included in rule 441—95.7(252B) applies to the case.

Support services will be provided to eligible persons without application or application fee, subject to applicable enforcement fees.

95.10(1) *Notice of services.* When a family is no longer eligible for public assistance, the department will forward a form prescribed by the department to the family's last-known address within five working days of the notification of ineligibility to inform the family of the following:

a. Unless the family notifies the department to the contrary, services will continue.

b. The effect of continuing to receive support services, including the available services and the state's policies on fees, cost recovery, and distribution.

95.10(2) *Termination of services.*

a. A person may request that the department terminate support services at any time by completing and returning a form prescribed by the department, or in any other form of written communication, to child support services.

b. Continued support services may be terminated at any time for any of the reasons included in rule 441—95.7(252B).

95.10(3) *Reapplication for services.* A person whose services were denied or terminated may reapply for services by completing the application process described in subrule 95.2(2).

441—95.11(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with child support services in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following apply:

95.11(1) *Cooperation defined.* The person will cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—Chapter 41 or 75 for refusal to cooperate is established.

a. The person will cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom assistance or Medicaid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom assistance or Medicaid is claimed.

(3) Obtaining support payments for the person and the child for whom assistance is claimed and obtaining medical support for the person and child for whom Medicaid is claimed.

b. Cooperation includes the following actions by the person if the action is requested by child support services:

(1) Providing the name of the noncustodial parent and additional necessary information.

(2) Appearing at child support services to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the person that is relevant to achieving the objectives of the child support program.

(3) Appearing at judicial or other hearings, proceedings, or interviews.

(4) Providing information or attesting to the lack of information under penalty of perjury.

(5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by Iowa Code section 252A.3A. However, the person will not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

c. The person will cooperate with child support services to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation, establish paternity, or secure medical support. A person's cooperation with child support services includes completing and signing a form prescribed by the department, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.11(2) *Failure to cooperate.* Child support services will make the determination of whether a person has cooperated. Child support services will promptly send notice of a determination of noncooperation to the person on a form prescribed by the department and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs will take appropriate sanctioning actions as provided in statute and rules.

95.11(3) *Good cause or other exception.*

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—Chapter 41.

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—Chapter 75.

441—95.12(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in 441—Chapters 41 and 75 apply. The appropriate staff in the FIP and Medicaid programs are designees of child support services to determine noncooperation and issue notices of that determination until the referral to child support services is completed.

441—95.13(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases.

95.13(1) *Requirements.* The person receiving nonpublic assistance support services will cooperate with child support services by meeting all the requirements of rule 441—95.11(252B), except that the person may not claim good cause or other exception for not cooperating.

95.13(2) *Failure to cooperate.* Child support services will make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation will result in termination of support services. An applicant or recipient may also request termination of services under subparagraph 95.7(1)*"a"*(10).

441—95.14(252B) Charging pass-through fees. Pass-through fees are fees or costs incurred by the department for service of process, genetic testing, and court costs if the entity providing the service charges a fee for services. Child support services may charge pass-through fees to persons who receive continued services according to 441—95.10(252B) and to other persons receiving nonassistance services, except no fees may be charged to an obligee residing in a foreign country or to a foreign country if child support services is providing services under paragraph 95.2(2)*"b."*

441—95.15(252B) Reimbursing assistance with collections of assigned support. For an obligee and child who currently receive assistance under FIP, the full amount of any assigned support collection that the department receives will be distributed according to rule 441—95.10(252B) and retained by the department to reimburse the FIP assistance.

441—95.16(252B) Child support account. Child support services will maintain a child support account for each client. The account, representing money due the department, will cover all periods of time public assistance has been paid, commencing with the date of the assignment. Child support services will not maintain an interest-bearing account.

441—95.17(252B) Emancipation verification. Child support services may verify whether a child will emancipate according to the provisions established in the court order prior to the child's eighteenth birthday.

95.17(1) *Verification process.* Child support services will send a form prescribed by the department to the obligor and obligee on a case if child support services has an address.

95.17(2) *Return information.* The obligor and obligee will be asked to complete and return the form to child support services. Child support services will use the information provided by the obligor or obligee to determine if the status of the child indicates that any previously ordered adjustments related to the obligation and a child's emancipation are necessary on the case.

95.17(3) *Failure to return information.* If the obligor and obligee fail to return the questionnaire, child support services will apply the earliest emancipation date established in the support order to the case and implement changes in support amounts required in the support order.

95.17(4) *Conflicting information returned.* If conflicting information is returned or made known to child support services, child support services will have the right to verify the child's status through sources other than the obligor and obligee.

441—95.18(17A) Right of appeal.

95.18(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 will be limited to the following issues:

a. A person is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.6(17A), or a dispute based on the date of collection has not been acted on in a timely manner.

b. A termination in services has occurred as provided in rule 441—95.7(252B).

95.18(2) A hearing will not be granted under 441—Chapter 7 when an appellant has a complaint about child support services collections actions other than those described in this rule. This includes the collection of an annual fee for child support services as specified in Iowa Code chapter 252B.

441—95.19(17A) Appeal record. The record in an administrative appeal under this rule will include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal and the verbatim record of the hearing.

These rules are intended to implement Iowa Code chapters 252B, 252C, 252D and 17A.

ARC 8560C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to information and records and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 96, "Information and Records," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 252B.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 42 U.S.C. Section 659.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. These proposed rules allow Child Support Services to request or administratively subpoena information from third parties and provide appeal procedures before imposing the statutory fine.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96
INFORMATION AND RECORDS

441—96.1(252B) Access to information and records from other sources. In addition to statutes and other rules, the following entities shall provide information and records based on the following methods of requesting the information and within the following time frame:

96.1(1) *Oral or written request.* All persons and entities, including all for-profit, nonprofit, and governmental employers, must, within 15 days of receipt of a request, provide child support services or a child support agency of another state information on the employment, compensation, and benefits of any individual employed by the person or entity as an employee or contractor if child support services or the agency is providing services in relation to that individual. The request may be made orally, by letter, by form or by other written request listed in subrule 96.1(3); however, the fine and procedures described in rules 441—96.2(252B) through 441—96.6(252B) only apply if the request was by a written request listed in subrule 96.1(3).

96.1(2) *Subpoena.* All persons and entities shall comply with a child support services subpoena, issued by child support services, or an Administrative Subpoena, OMB Control No. 0970-0152, or its successor, issued by child support services or a child support agency of another state, as provided in Iowa Code section 252B.9. Child support services or a child support agency of another state may issue a subpoena regarding more than one individual. The person or entity must provide the information and records as directed in a form prescribed by the department or the Administrative Subpoena.

96.1(3) *Time to reply to a written request.* A person or entity who is sent any of the following must provide the information and records requested in the manner requested to child support services or child support agency of another state, as appropriate, within 15 days of the date of the request:

a. Any form prescribed by the department that requests information described in subrule 96.1(1).

b. A child support services subpoena, or an Administrative Subpoena, OMB Control No. 0970-0152, or its successor, as provided in subrule 96.1(2), from child support services or from a child support agency of another state.

c. A written request or form as provided in subrule 96.1(1) from a child support agency of another state.

441—96.2(252B) Refusal to comply with written request or subpoena.

96.2(1) A parent or putative father in a support or paternity proceeding in which child support services or a child support agency of another state is providing services who fails to comply with a request or subpoena as provided in subrule 96.1(3) shall be subject to license sanctioning as provided in 441—Chapter 98.

96.2(2) An entity or a person who is not a parent or putative father as described in subrule 96.2(1) may refuse to comply under the circumstances provided in rule 441—96.3(252B).

441—96.3(252B) Procedure for refusal.

96.3(1) *No information.* A person or entity who does not have any information or records requested or subpoenaed must respond as follows:

a. If the request or subpoena is a form from child support services under paragraph 96.1(3)*"a"* or *"b,"* the person or entity must sign and return to child support services the appropriate portion of the form indicating the lack of information or records.

b. If the request or subpoena is one listed in paragraph 96.1(3)*"c,"* the person or entity must send the child support agency of the other state a signed and dated written statement indicating the lack of information or records.

96.3(2) *Good cause.* The person or entity may claim good cause for refusing to comply as required in Iowa Code section 252B.9.

a. To claim good cause, the person or entity must file a request for a conference by mailing or submitting a written request to child support services that issued the request or subpoena within 15 days of the issuance of the request or subpoena.

b. If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with child support services or with the child support agency of the other state. The person or entity shall request a conference with child support services by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to child support services. The person or entity must request a conference with the child support agency of the other state by following the requirements of that state's laws and regulations.

441—96.4(252B) Conference conducted.

96.4(1) *Request or subpoena issued by child support services.* If child support services issued the request or subpoena, child support services will notify the person or entity and conduct a conference within ten days of receipt of the request for a conference. At the request of either child support services or the person or entity, the conference may be rescheduled one time. The conference may be conducted in person or by telephone.

96.4(2) *Request or subpoena issued by other state.* If a conference with child support services is requested based upon a request or subpoena issued by a child support agency of another state, the department will request that agency send an interstate referral and appropriate information to child support services or central registry.

a. Child support services will notify the person or entity and conduct a conference within ten days of opening a case based upon an interstate referral and appropriate information. If child support services does not receive an interstate referral and appropriate information within 60 days of the department's request, the request or subpoena received under subrule 96.1(3) shall be void, and child support services will notify the person or entity that the request or subpoena is void.

b. The voiding of a request or subpoena under this subrule does not prevent the issuance of subsequent requests or subpoenas.

96.4(3) *Submission of information.* On or before the conference date, the person or entity must submit information to child support services that demonstrates a mistake in the identity of the person or entity, or a mistake in the identity of the individual who is the subject of the request or subpoena, or that demonstrates a specific prohibition under federal law to release the information or records. Child support services may extend the time to conduct the conference an additional ten days to allow time for the person or entity to provide the information.

96.4(4) *Notice of findings.* Following the conference, child support services will issue a notice pursuant to Iowa Code section 252B.9.

441—96.5(252B) Fine assessed.

96.5(1) *Conditions resulting in fine.* Child support services will assess a fine of $100 per refusal and notify the person or entity of the fine if any one of the following applies:

a. Ten days have passed since child support services issued a notice under subrule 96.4(4) stating child support services determined there is no good cause to refuse to comply with the request or subpoena, and the information or records have not been received.

b. Fifteen days have passed since child support services issued the request or subpoena and the information or records have not been received, nor has the person or entity filed a request for a conference.

c. Fifteen days have passed since a child support agency of another state has issued the request or subpoena, and that agency sends an interstate referral to child support services requesting enforcement of the request or subpoena because the information or records were not received.

96.5(2) *Definition of refusal.* One refusal is a refusal to supply information or records based on one written request, or one subpoena regarding one or more individuals.

96.5(3) *Notification of fine.* If child support services assesses a fine, child support services will notify the person or entity by regular mail with proof of service completed according to Rule of Civil Procedure 1.442. The person or entity shall have 30 days from the date of the notice to pay the fine.

441—96.6(252B) Objection to fine or failure to pay.

96.6(1) *Objection filed.* The person or entity may object to the imposition of the fine by filing an application for judicial review in district court within 30 days of issuance of the notice of the fine and sending a copy of the application to child support services.

96.6(2) *Petition to compel.* If the person or entity fails to pay the fine imposed and does not file an application for judicial review within the time provided in this rule, child support services may file a petition to compel the person or entity to comply with the request, subpoena or fine in district court in the county in which the underlying support order or pending matter is filed. If there is no support order

or pending matter filed in district court in Iowa, then child support services may file the petition in the county in which the person resides or the person or entity has its principal place of business.

96.6(3) *Certification to court.* If the person, entity, or child support services files an action in district court, child support services will certify a copy of the following, as appropriate, to the court prior to a hearing:

a. Proof of service of the request or subpoena.

b. Proof of service of the notice of assessment of a fine.

c. Written decision following a conference.

96.6(4) *Failure to comply with court order.* Failure of the person or entity to comply with an order of the district court will be subject to enforcement through contempt of court.

441—96.7(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 17A and section 252B.9.

ARC 8562C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to collection services center and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 97, "Collection Services Center," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 252B.13A and 252B.16.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 252B.13A, 252B.17, and 252D.17; 42 U.S.C. Section 654.27(a); and 42 U.S.C. Section 654(b).

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter describes the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor, and distribute support payments.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

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

Public Hearing

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

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 97 and adopt the following **new** chapter in lieu thereof:

CHAPTER 97
COLLECTION SERVICES CENTER

441—97.1(252B) Definitions. The definitions of terms used in this chapter will follow those terms defined in rule 441—95.1(252B) with the exception or addition of the following:

"Collection services center" means the public agency designated to receive, record, monitor, and disburse support payments as defined in Iowa Code section 598.1, 252B.15 or 252D.16, in accordance with Iowa Code sections 252B.13A and 252B.14.

"Correlated non-IV-D case" means a non-IV-D case where income withholding information must be maintained by child support services in order to properly process an income withholding payment because the obligor has both a non-IV-D and a current or former IV-D case.

"Electronic funds transmission" means, for purposes of this chapter, the use of a NACHA-approved child support format for the electronic transmission of funds to the collection services center.

"Employee" means the same as defined in Iowa Code section 252G.1.

"Former IV-D case" means a case that previously received services from child support services under rule 441—95.2(252B) but currently receives only payment processing services from the collection services center.

"Insufficient funds payment" means a support payment by check or other financial instrument that is dishonored, not paid, or the funding of the payment is determined to be inadequate.

"IV-D case" means a case that receives services from child support services under rule 441—95.2(252B), including payment processing services from the collection services center.

"NACHA-approved child support format" means a child support payment transmission format approved by the National Automated Clearing House Association (NACHA).

"Non-IV-D case" means a support order that never received services from child support services under rule 441—95.2(252B) but that receives payment processing services from the collection services center for income withholding payments.

"Obligee" means the guardian, custodial parent, person, or entity entitled to receive support payments.

"Obligor" means a parent, relative, or any other person declared to be legally liable for the support of a child or the custodial parent or guardian of the child.

"Payor of income" means the same as defined in Iowa Code section 252D.16.

"Support payment" means the same as "support" or "support payments" as defined in Iowa Code section 252D.16.

"Website" means the website operated by the department for the purpose of allowing a payor of income to make a support payment through electronic transmission to the collection services center.

441—97.2(252B) Transfer of records and payments. For non-IV-D cases, the clerk of court shall provide core case information to child support services upon the filing of a new income withholding order or upon the request of child support services. "Core case information" means information listed in paragraphs 97.2(1)*"a"* and *"b"* and subrule 97.2(2). For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to child support services upon request. After the establishment of a case, child support services will send notices of transfer to obligors and obligees based upon case type.

97.2(1) *Transfer of information on non-IV-D and correlated non-IV-D cases.*

a. In non-IV-D cases, child support services will request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.

(2) The obligee's name and address.

(3) The court order numbers.

b. In correlated non-IV-D cases, child support services will request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.

(2) The obligee's name and address.

(3) The court order numbers.

(4) The income withholding order.

c. The clerk of the district court must provide case information to child support services on a regular basis when an income withholding order is filed with a clerk of court or when child support services requests the information in order to process a payment.

d. Child support services will automatically create cases for payment processing based upon the information received from the clerks of court.

97.2(2) *Transfer of information on IV-D cases.* In IV-D cases, the clerk of the district court shall provide child support services with the following information if the information has been provided to the clerk upon request of child support services:

a. The obligee's name, date of birth, last-known mailing address, the social security number if known and, if different in whole or part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name, birth date, social security number, and last-known mailing address of the obligor.

c. A copy of all support orders that establish or modify a support amount.

d. The names, social security numbers, and dates of birth of any minor dependents for whom support is ordered, if available.

e. A record of any support payments received by the clerk of district court prior to the transfer of case information and any payments received by the collection services center and the date of transfer to the collection services center.

f. A record of any determination of controlling order under the Uniform Interstate Family Support Act.

441—97.3(252B) Support payment records. Each IV-D, former IV-D and non-IV-D case type shall have an official payment record.

97.3(1) *Official records for cases.* The official payment records for each case type are maintained by a designated entity.

a. The collection services center will establish, maintain and certify the official support payment records for IV-D or former IV-D cases.

b. The clerk of the district court shall establish, maintain and certify the official support payment records for non-IV-D and correlated non-IV-D cases. The collection services center will establish and maintain records for receipt and disbursement of income withholding payments for these cases but will not certify these records as the complete payment record.

97.3(2) *Informal conference for payment records.* Child support services will provide an informal conference or desk review regarding the contents of any support payment record to the obligor or obligee upon request.

a. In IV-D or former IV-D cases, the conference shall be available to review the payment record and to answer questions of the obligee or obligor regarding the accuracy of the record.

b. In non-IV-D and correlated non-IV-D cases, the conference shall be available to review the accuracy of the contents of any record of income withholding payments.

97.3(3) *Certified payment records.* Child support services will provide certified copies of the official support payment records as described in paragraph 97.3(1)*"a"* in accordance with Iowa Code section 252B.9.

441—97.4(252B) Method of payment. Payments will be accepted in specific forms from obligors and payors of income.

97.4(1) *Form of payment.* Except as otherwise provided in this rule and in rule 441—97.5(252D), support payments may be paid in the form of cash, check, bank draft, money order, preauthorized withdrawal of funds, or other financial instrument, and sent by mail to the collection services center or by electronic transmission of funds.

97.4(2) *Treatment of insufficient funds payments.* Child support services will have a process in place to handle insufficient funds payments.

a. An obligor submitting an insufficient funds support payment to the collection services center will be required to submit payments by cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

b. A payor of income submitting an insufficient funds support payment to the collection services center is required to submit payments through electronic funds transmission, cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

c. Insufficient funds payments will not be credited to the collection services center account for the obligor or will be removed from the account if credited before sufficiency was verified. Insufficient funds support payments will be subject to additional collection by the collection services center for the dishonored amount.

d. The collection services center may not process additional payments other than cash, bank drafts or money orders from an obligor or payor of income who has previously submitted insufficient funds payments without first verifying the payment. The collection services center will have a process in place to allow the obligor or the payor of income the opportunity to replace any additional moneys submitted for payment of support before processing in order to avoid additional insufficient funds entries into the official payment records on the affected cases.

97.4(3) *Distribution of payment.* Nonincome withholding support payments received by the collection services center in IV-D, former IV-D, non-IV-D, or correlated non-IV-D cases that are not directed to a specific account or support obligation will first be applied proportionately to the current support obligation on all cases for the obligor and, secondly, to the support arrearages owed by the obligor.

441—97.5(252D) Electronic transmission of payments. Payors of income must electronically transmit to the collection services center the amounts withheld under an income withholding order.

97.5(1) *Thresholds for electronic funds transmission.* A payor of income must transmit payment through electronic funds transmission if either of the following applies:

a. The payor of income employs 100 or more employees and uses an agent for payroll processing.

b. The payor of income employs 200 or more employees.

97.5(2) *Use of the website.* Unless paragraph 97.4(2)*"b"* applies, a payor of income required to use electronic funds transmission under subrule 97.5(1) may elect to submit payments electronically by using the website if the payor of income determines that using electronic funds transmission would cause undue hardship.

97.5(3) *Implementing electronic funds transmission.* A payor of income implementing electronic funds transmission shall complete all the following in advance of transmitting payments electronically:

a. Contact child support services to obtain file layout and case reconciliation information.

b. Provide to the collection services center:

(1) The contact information for the person responsible for electronic funds transmission for the payor of income or the payor of income's agent for payroll processing;

(2) The contact information for the person responsible for payroll accounts for the payor of income or the payor of income's agent for payroll processing;

(3) The name and address of the authorized financial institution from which the payment will be withheld; and

(4) A sample file layout in a NACHA-approved child support format and, if necessary, a test file in a NACHA-approved child support format.

c. If needed upon review by the collection services center:

(1) Make corrections to the file layout to meet a NACHA-approved child support format, and

(2) Provide a corrected copy to the collection services center for review.

d. Upon approval of the file layout by the collection services center, provide an implementation date before the first submission of payment through electronic funds transmission.

97.5(4) *Maintaining information and file format after implementation.* A payor of income that has implemented electronic funds transmission shall:

a. Transmit both payment amounts and detailed information records in accordance with a NACHA-approved child support format.

b. Advise the collection services center of a payment error within two business days.

c. Provide the collection services center ten working days' advance notice when changing between NACHA-approved child support formats.

d. Correct case number or file problems identified by the collection services center before sending any additional files.

97.5(5) *Exemption from electronic transmission.* To avoid undue hardship, a payor of income that has fewer than 200 employees or a payor of income that has fewer than 100 employees and uses an agent for payroll processing is exempt from using electronic transmission unless subrule 97.4(2) applies.

441—97.6(252B) Authorization of payment. The collection services center must authorize the generation of payments for support paid. The collection services center will issue payments as follows:

97.6(1) *Submittal of information to department of administrative services.* In order to disburse payments to the obligee within two working days, the collection services center will submit information daily to the department of administrative services to issue a warrant or electronic file transfer (EFT) payment to the obligee.

97.6(2) *Release of funds.* The following workday, an electronic transfer of funds will be sent to the designated account of the obligee or an alternate account to be accessed by the obligee through an electronic access card, or if subrule 97.6(5) applies, a state warrant may be sent by regular mail to the last-known address of the obligee.

97.6(3) *Electronic transfer.* Obligees who want electronic transfer of support payments to a designated account shall complete a form prescribed by the department and submit it to the collection services center. Unless subrule 97.6(5) applies, any obligee not using automatic deposit to a designated account will be issued an electronic access card for receipt of support payments.

97.6(4) *Walk-ins.* Support payments will not be hand-delivered to the obligee on a walk-in basis.

97.6(5) *Warrants.* The collection services center may authorize generation of a warrant if any one of the following conditions applies:

a. Generation of a warrant is necessary to meet federal requirements to disburse a payment to an obligee within two working days when electronic transfer is not feasible.

b. The obligee has not requested automatic deposit to a designated account of the obligee, and payment is from a source that is nonrecurring or is not expected to continue in a 12-month period.

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on a form prescribed by the department that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return the form prescribed by the department to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. The exemptions available under this paragraph are:

(1) A physical disability imposes a hardship in accessing an electronically transferred payment.

(2) A mental disability imposes a hardship in accessing an electronically transferred payment.

(3) A language barrier imposes a hardship in accessing an electronically transferred payment.

(4) A literacy barrier imposes a hardship in accessing an electronically transferred payment.

(5) The obligee's home and work addresses are more than 30 miles from an automated teller machine and more than 30 miles from a financial institution where the account funds can be accessed.

d. The representative payee, court appointee, or trustee notifies the collection services center or unit in writing that one of the following applies:

(1) The obligee is under a court-ordered guardianship or conservatorship.

(2) The obligee is involved in other legal proceedings, including bankruptcy, which require payments to be sent to a trustee or other representative payee.

441—97.7(252B) Processing misdirected payments. If the collection services center receives a payment for which a corresponding obligee cannot be identified, the collection services center will contact the person or entity that directed the payment to obtain additional information. Payments inappropriately directed to the collection services center will be returned to the person or entity sending the payment.

441—97.8(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 17A and sections 252B.13A through 252B.17 and 252D.17.

ARC 8564C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to support enforcement services and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 98, "Support Enforcement Services," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 252B, 252D, 252E, 252I, and 252J.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 42 U.S.C Sections 666 and 652; 45 CFR Sections 302.33, 303.8, 303.30, 303.31, 303.32. 303.6, 303.100, 303.72, 302, 252B.9(3), and 303; Iowa Code chapters 252E, 252D, 252B, 252J, 252I, and 17A; Iowa Code sections 252B.5, 598.1, 598.21B, 96.3, 252B.9, 252B.21, 252B.3, and 252B.4; 29 CFR Section 2590.609-2; 15 U.S.C. Sections 1673(b) and 1681s-1; and 31 CFR Sections 285.1 and 285.3.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. Child Support Services is responsible to provide child support enforcement services. This proposed chapter expands on the federal laws and the Iowa Code of each enforcement action and provides additional procedures for each section. The rules also provide a procedure for referral of delinquent support to collection contractors and provide criteria to exempt cases from the procedure.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 98 and adopt the following **new** chapter in lieu thereof:

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

441—98.1(252E) Definitions.

"Delinquent support" means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support will also include payments for parental liabilities not received as specified pursuant to 441—Chapter 156.

"Federal nontax payment" means an amount payable by the federal government that is subject to administrative offset for support under the federal Debt Collection Improvement Act, PL 104-134 (April 26, 1996).

"Medical support" means the same as defined in Iowa Code section 252E.1.

"Mistake of fact" means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

"Obligee" means the same as defined in Iowa Code section 252E.1.

"Obligor" means the same as defined in Iowa Code section 252E.1.

"Offsets" means a federal income tax refund or federal nontax payment as described in rule 441—98.30(252B).

"Setoffs" means a state income tax refund, rebate or payment owed to a person by a state agency as described in the process found at 701—Chapter 26 and in rules 441—98.28(252B) and 441—98.29(252B).

441—98.2(252E) Medical support health benefit plan information.

98.2(1) *Information from an employer.* Child support services will gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. Child support services may send a form prescribed by the department whenever a potential employer is identified.

b. Child support services will secure information about health care coverage from a known employer on a form prescribed by the department when a form prescribed by the department or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

98.2(2) *Information from an obligor.* Child support services may secure medical support information from an obligor on a form prescribed by the department.

98.2(3) *Disposition of information.* Child support services will provide the information:

a. To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

b. To the obligee, when requested, when the dependent is not a recipient of Medicaid.

441—98.3(252E) Medical support insurer authorization. When the obligor does not provide to the insurer the signed documents necessary to enroll and process claims for the dependent for whom support is ordered, the insurer is authorized to accept the signature of the obligee or the department's designee on necessary forms. For purposes of this chapter, the third-party liability unit is the department's designee when support is assigned.

441—98.4(252E) Medical support enforcement.

98.4(1) *Medical support enforcement.* Medical support may be enforced pursuant to Iowa Code section 252E.12.

98.4(2) *Health care coverage.*

a. If an obligor was ordered to provide health care coverage under an order but did not comply with the order, child support services may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or on a form prescribed by the department.

b. If child support services implements an order under this subrule, child support services will send a notice to the obligor at the last-known address of the obligor by regular mail. The notice will contain the following information:

(1) A statement of the obligor's right to an informal conference.

(2) The process to request an informal conference.

(3) The obligor's right to file a motion to quash with the district court.

98.4(3) *Termination of employment.* When child support services receives information indicating the obligor's employment has terminated, child support services will secure the status of the health benefit plan by sending a form prescribed by the department to the employer.

If no response is received within 30 days of sending a form prescribed by the department, child support services will send a second request on a form prescribed by the department to the employer.

441—98.5(252E) Contesting enforcement of medical support. The obligor may contest the enforcement of medical support by means of an informal conference with child support services, or by filing a motion to quash.

98.5(1) *Motion to quash.* Procedures for filing a motion to quash the order are specified under Iowa Code sections 252D.31 and 252E.6A.

98.5(2) *Informal conference.*

a. The obligor will be entitled to only one informal conference for each new employer to which child support services has forwarded a form prescribed by the department or an order under Iowa Code section 252E.4 to enforce medical support.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the enforcement was entered in error.

(3) The obligor shall request an informal conference in writing, within 15 calendar days from the date of the notice of the right to an informal conference, or at any time if a mistake of fact regarding the identity of the obligor is believed to have been made.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

c. The issues to be reviewed at the conference shall be as follows:

(1) Whether the identity of the obligor is in error.

(2) Whether the obligor is already providing health care coverage for the dependent.

(3) Whether the availability of dependent health care coverage is in error.

(4) Whether the obligor was ordered to provide health care coverage under the support order.

d. The results in an informal conference will in no way affect the right of the obligor to file a motion to quash the order under Iowa Code section 252E.6A.

441—98.6(252D) Income withholding of delinquent support. When there is a delinquency in an amount equal to the support payable for one month as specified by an order for support or reimbursement order and child support services is providing services under 441—Chapter 5, child support services will enter an order to withhold the obligor's income not exempt by state or federal law to require the income withheld to be paid to the collection services center to pay the support obligation. An income withholding order will also be entered to collect the unpaid balance of a judgment for the reimbursement of a support debt when a repayment schedule is not specified in the order establishing the judgment.

441—98.7(252D) Income withholding amounts. Child support services will determine the amount to be withheld by the employer or other income providers as follows:

98.7(1) *Current support obligation exists.* When a current support obligation exists, the amount withheld will be an amount equal to the current support obligation, and an additional amount equal to 20 percent of the current support obligation to be applied toward the liquidation of any delinquency.

98.7(2) *Current obligation ended.* When the current support obligation has ended or has been suspended, the income withholding order will remain in effect until any delinquency has been satisfied. The amount withheld will be equal to the amount of the most recent prior current support obligation that is greater than zero. However, in the following circumstances, the amount withheld will be 20 percent of the amount owed for current support at the time the obligation ended or was suspended:

a. There has been a change of court-ordered physical care from the obligee to the obligor.

b. The obligee and obligor have reconciled and have obtained a modification ending the current support obligation.

c. The current obligation is suspended through the suspension process.

d. In a foster care case, the order for parental liability ended when the child left placement, or an order ending the liability has been entered and the child in foster care has returned to the home of a parent ordered to pay parental liability. In this situation, the amount withheld will be reduced to 20

percent of the current support amount when the obligation ended, but only for the parent with whom the child resides.

98.7(3) *No support ordered.* When there is no current child support ordered and the obligation is solely the result of a judgment that does not specify a repayment schedule, the withholding amount will be set at the amount for one person from the family investment program (FIP) schedule of basic needs.

98.7(4) *Lump-sum income source.* Notwithstanding subrules 98.7(1), 98.7(2), and 98.7(3), when the obligor is paid by a lump-sum income source, the withholding amount may include all current and delinquent support due through the current month. Lump-sum income includes income received in a sole payment or in payments that occur at two-month or greater intervals.

441—98.8(252D) Amendment of amount of withholding due to hardship.

98.8(1) *Request for amendment.* If subrule 98.7(2) or 98.7(3) applies, the obligor may request at any time an amendment of the amount withheld as payment toward the delinquency or reimbursement on the grounds of hardship. The obligor must submit the request in writing to child support services.

98.8(2) *Hardship criterion.* Hardship exists if the obligor's income is equal to or less than 200 percent of the poverty level for one person according to the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2) (as amended to August 1, 2024).

a. If hardship is claimed by the obligor, child support services may verify income from:

(1) The employer or other income provider of the obligor.

(2) The obligor.

(3) The state employment security agency.

(4) Other records available in accordance with Iowa Code section 252B.9.

b. If the hardship criterion is met, the amount withheld as payment toward the delinquency may be amended as follows:

(1) The obligor's gross yearly income will be divided by 200 percent of the established yearly gross poverty level income for one person. That amount will be multiplied by .5. The resulting figure will be multiplied by the most recent prior current support obligation or the amount determined pursuant to subrule 98.7(3), as applicable, to determine the amended amount. Notwithstanding this calculation, the amended amount will not be less than $15 per month.

(2) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or the amended amount determined in subparagraph 98.8(2)*"b"*(1) is to be withheld.

98.8(3) *Hardship period.* If the hardship criterion in subrule 98.8(2) is met, child support services will grant the amended amount of withholding for a period of two years, subject to the provisions of subrule 98.8(6). However, if the obligor is receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits, the obligor is deemed to continue to meet the hardship criterion for the duration of those benefits.

98.8(4) *Denying requests.* A hardship request may be denied if:

a. The criterion in subrule 98.8(2) is not met.

b. The obligor has been granted an amended amount of withholding based on this rule within the last two years and that hardship period will not expire in less than 30 days.

c. The obligor's previous hardship period expired within the last six months and, within 30 days prior to the expiration date of the previous hardship period, the obligor did not submit the following to child support services:

(1) A written request for hardship; or

(2) Verification of the obligor's income, and child support services was not able to verify the obligor's income as described in paragraph 98.8(2)*"a."*

98.8(5) *Notice requirements.* Child support services will provide written notification to the obligor of the result of the hardship request.

a. When a hardship request is granted, the written notification will include the amended amount of withholding and the date the hardship period will expire.

b. When a hardship request is denied, the written notification will include the reason for denial.

98.8(6) *Termination of hardship prior to expiration date.* The hardship period will automatically end, regardless of expiration date, if any of the following occurs:

a. A current support obligation is added to the support order.

b. The current support obligation was previously suspended and is reinstated.

c. The delinquency has been paid in full.

d. The obligor was receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits at the time the hardship request was granted, and child support services has verified that the obligor is no longer receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits.

441—98.9(252D) Immediate income withholding. Immediate withholding of income pursuant to Iowa Code section 252D.8 is automatic without additional notice to the obligor unless:

98.9(1) *Good cause exists.* Good cause is found to exist by the court or child support services. For purposes of this rule, "good cause" is defined as the posting of a secured bond by the obligor sufficient to pay all current and future child support obligations, including any delinquency that may accrue.

98.9(2) *Written agreement exists.* A written agreement is reached between both parties that provides for an alternative arrangement for payment of child support subject to the following conditions:

a. Unless approved by child support services, written agreements between the obligee and obligor to waive immediate income withholding become void when child support is assigned to this state or to another state pursuant to a statute of that jurisdiction.

b. All payments pursuant to any written agreement will be paid as directed in Iowa Code sections 252B.14 and 598.22.

441—98.10(252D) Approval of request for immediate income withholding. When the obligee or other party to the proceeding requests immediate withholding, child support services will determine whether the request will be approved.

98.10(1) *Basis for approval.* Approval of a request for immediate income withholding by child support services may be based on:

a. Past payment record of the obligor that demonstrates an inconsistent compliance with the support order.

b. Whether the state of Iowa is providing public assistance.

98.10(2) *Request denied.* Child support services may not approve a request for immediate income withholding on cases where no public assistance has been expended and there is a prior written agreement between the obligee and obligor that has been approved by court order.

441—98.11(252D) Immediate income withholding amounts. The amount withheld will be the amount of the current support obligation as specified in the support order. If a judgment for accrued support is established in the support order, the amount withheld will be the amount due for current support and the periodic payment amount due for the accrued support as specified in the order. If no periodic payment for the accrued support is established in the support order, the amount withheld will be the amount due for current support plus 10 percent of the amount of the current obligation to be applied to the accrued support.

441—98.12(252D) Immediate income withholding amounts when current support has ended. When the child support obligation has ended, the amounts to be withheld will be in accordance with subrule 98.7(2).

441—98.13(252D,252E) Income withholding for medical support. An income withholding order or notice of income withholding may also include provisions for enforcement of medical support when medical support is included in the support order. The income withholding order or notice of income withholding may require implementation of dependent health care coverage pursuant to Iowa Code chapter 252E or the withholding of a dollar amount for medical support. Amounts withheld for medical support will be determined in the same manner as amounts withheld for child support.

441—98.14(252D,252E) Maximum amounts to be withheld for income withholding. An income withholding order or a notice issued by child support services will require that the employer or other income provider withhold no more than the maximum amounts allowed under the Federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.14(1) The amount of income subject to withholding will be limited to 50 percent of the nonexempt disposable income of the obligor unless there is more than one support order for which the obligor is obligated and the criteria of 15 U.S.C. Section 1673(b) (as amended to August 1, 2024) are met, or the obligor agrees to a greater amount within these limits.

98.14(2) Disposable income means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts mandated by law to be withheld.

441—98.15(252D) Income withholding for multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by child support services, child support services may enter an income withholding order to enforce each obligation. The amount specified to be withheld on the delinquency under the income withholding order or notice will be determined in accordance with rule 441—98.7(252D).

441—98.16(252D) Income withholding notice to employer and obligor. Child support services will send the obligor and the employer or other income provider a notice of income withholding as follows:

98.16(1) *Notice to employer.* Child support services may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If child support services is sending notice by regular mail, it will send a form prescribed by the department or a notice in the standard format prescribed by 42 U.S.C. Section 666(b)(6)(A) (as amended to August 1, 2024). If child support services is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions that are applicable to all obligors, such as the information in paragraphs 98.16(1)*"d,""f,""g,"* and *"i."* The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding will contain information such as the following:

a. The obligor's name and social security number.

b. The amount of current support to withhold.

c. The amount of support to withhold for payment of delinquent support, if any.

d. The amount an income provider may deduct for costs of processing each support payment.

e. The child support case number.

f. The location to which payments are sent.

g. The maximum amount that can be withheld for payment of support as specified in rule 441—98.14(252D,252E).

h. The method to calculate net income.

i. Responsibilities of the income provider as specified in Iowa Code section 252D.17.

j. Responsibility, if any, of the income provider to enroll the obligor's dependent for coverage under a health benefit plan.

98.16(2) *Notice to obligor.* A form prescribed by the department will be sent to the last-known address of the obligor by regular mail. The notice will contain the following information:

a. A statement of the obligor's right to an informal conference.

b. The process to request an informal conference.

c. The obligor's right to claim hardship criteria and the process for a claim.

d. The obligor's right to file a motion to quash the income withholding order or notice with the district court.

e. The information provided to the employer or other income provider, or a copy of the notice sent to the employer or other income provider.

f. The amount of any delinquency.

98.16(3) *Standard format.* As provided in Iowa Code section 252D.17, an order or notice of an order for income withholding will be in a standard format and on a form prescribed by the department.

Child support services will make a copy of the form available to the state court administrator and the Iowa state bar association.

441—98.17(252D) Contesting the income withholding. The obligor may contest the income withholding by means of an informal conference with child support services or by filing a motion to quash.

98.17(1) *Motion to quash.* Procedures for filing a motion to quash the order or the notice of income withholding are specified in Iowa Code chapter 252D.

98.17(2) *Informal conference.*

a. The obligor will be entitled to only one informal conference for each new or modified income withholding order or notice issued by child support services that specifies a new or modified total amount to withhold.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the withholding is in error.

(3) The obligor will request an informal conference in writing.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

(8) If child support services has not complied with rule 441—98.7(252D), it will then adjust the income withholding amount.

c. The issues to be reviewed at the conference will be as follows:

(1) For all income withholding orders or notices, whether:

1. The identity of the obligor is in error.
2. The amount of the current support obligation is in error.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. The amount of delinquent support is in error.
2. For income withholding orders or notices, whether the guidelines described at rule 441—98.7(252D) were followed.

(3) For immediate income withholding orders or notices, whether the criteria of rules 441—98.9(252D) and 441—98.10(252D) were appropriately applied.

d. The results of an informal conference will in no way affect the right of the obligor to file a motion to quash the income withholding order or notice with the court.

98.17(3) *Income withholding issued from another state.* Child support services will follow procedures for a motion to quash or a request for hardship or conduct an informal conference based on an income withholding order or notice issued in another state only if child support services is providing services under 441—Chapter 95.

441—98.18(252D) Termination of income withholding. Child support services may, by ex parte order, terminate an income withholding order under the following conditions:

98.18(1) *Order entered in error.* Child support services will terminate an income withholding order upon determination that the order was entered in error as follows:

a. The person named as the obligor in the income withholding order is not the person required to provide support under the support order being enforced.

b. For orders resulting from the existence of a delinquency, the required minimum delinquency did not exist at the time the income withholding order was entered.

98.18(2) *No support due.* In cases for which services are being provided by child support services, child support services will terminate an income withholding order previously entered by child support services when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order. In no case will payment of overdue support be the sole basis for termination of withholding.

98.18(3) *Other circumstances.* Child support services may revoke an income withholding order under other circumstances provided the conditions of Iowa Code chapter 252D are met.

441—98.19(252D) Modification of income withholding. Child support services may modify a previously issued income withholding order or notice according to the guidelines established under rule 441—98.7(252D) if it is determined that:

98.19(1) *Current support obligation changed.* There has been a change in the amount of the current support obligation.

98.19(2) *Amount in error.* The amount required to be withheld under the income withholding order or notice is in error as follows:

a. The amount required to be withheld as current support is not the amount specified in the order for support being enforced.

b. The guidelines established in rule 441—98.7(252D) were not followed.

98.19(3) *Past-due support paid.* Any past-due support debt has been paid in full. The withholding order or notice will be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order or notice may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment will be set at 20 percent of the current support amount.

98.19(4) *Income withholding and determination of controlling orders.* An obligation amount different from what child support services has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency will be 20 percent.

98.19(5) *Income withholding and review and adjustment of orders.* Child support services has conducted a review of the obligation pursuant to 441—Chapter 99. Child support services will modify the amount withheld to be applied toward the liquidation of any delinquency to 20 percent upon completion of the review and adjustment process.

98.19(6) *Implementation or termination of amended amount of withholding due to hardship.* Child support services has determined that the withholding order should be modified based upon the hardship provisions in rule 441—98.8(252D).

441—98.20(252D) Refunds of amounts improperly withheld. Child support services will refund to the obligor any amounts improperly withheld and received by the department under an income withholding order or notice issued by child support services, subject to the following:

98.20(1) *Services provided by the department.* Only those amounts received by the department during the period enforcement services are being provided are subject to refund.

98.20(2) *Satisfaction of amount to withhold.* No refund will be made unless amounts have been collected that fully satisfy the amount specified in the income withholding order or notice for the withholding period during which income has been generated.

98.20(3) *When issued.* Any amounts received in excess of the amounts specified in the order or notice to withhold will be issued to the obligor within 30 days of discovery by child support services unless the obligor requests in writing that these amounts be credited toward the delinquency or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in subparagraphs 98.17(2)*"b"*(3) through (7). This procedure will not preclude the obligor from utilizing other civil remedies.

98.20(4) *Recovery by child support services.* The department may recover payments from the obligee in excess of those described in subrule 98.20(2) that have been received by the department and improperly forwarded to the obligee.

441—98.21(96) Child support intercept of unemployment insurance benefits. When the department of workforce development notifies child support services that an individual who owes a child support obligation being enforced by child support services has been determined to be eligible for unemployment insurance benefits, child support services will enforce a child support obligation that is owed by an obligor but is not being met by intercept of unemployment insurance benefits. "Owed but not being met" means either current child support not being met or arrearages that are owed.

98.21(1) *Withholding.* Child support services will intercept unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and this chapter. The amount to be withheld through a withholding of unemployment insurance benefits will not exceed the amount specified in 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.21(2) Reserved.

441—98.22(252B) Administrative seek employment order. Child support services may enter an ex parte order requiring the obligor to seek employment in accordance with Iowa Code section 252B.21.

441—98.23(252B) Effective date of seek employment order. The seek employment order will be effective 15 days after issuance of the order to the obligor. This 15-day period will serve as advance notice to the obligor.

441—98.24(252B) Method and requirements of reporting for administrative seek employment order. The obligor shall complete a form prescribed by the department, which will be submitted to child support services on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor will document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor will include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

441—98.25(252B) Reasons for noncompliance of administrative seek employment. Upon verification, certain conditions will be considered valid reasons for noncompliance. At the request of child support services, the obligor will provide verification of any reason for noncompliance with the order when the information is not available to child support services through online sources. Valid reasons for noncompliance and acceptable verification are:

98.25(1) *Receipt of social security, supplemental security income (SSI), or FIP.* Receipt of social security, SSI, or FIP is considered a valid reason for noncompliance when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.25(2) *Temporary illness or disability.* Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of a completed form prescribed by the department verifying the obligor's inability to seek or accept employment.

98.25(3) *High school student.* Attending high school is considered a valid reason upon verification from the high school.

98.25(4) *Incarceration.* Incarceration is considered a valid reason when verified through online information available to child support services or on receipt of verification from the institution.

98.25(5) *Substance use disorder treatment.* Participating in a supervised substance use disorder treatment program that is associated with a treatment center is considered a valid reason upon verification from the treatment center.

98.25(6) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition Assistance Program is considered a valid reason upon receipt of verification from the department of employment services.

98.25(7) *Employment or self-employment.* Employment or self-employment is considered a valid reason upon verification through the employer for those employed or through tax documents or business records for those self-employed.

98.25(8) *Payment of support.* Payment on the account equal to the amounts prescribed for income withholding in accordance with rule 441—98.7(252D) throughout the duration of the seek employment order is considered a valid reason upon verification of payments posted to the Iowa collection and reporting (ICAR) system.

441—98.26(252B) Administrative seek employment method of service. The seek employment order will be served on the obligor by regular mail. Proof of service will be completed according to Rule of Civil Procedure 1.442.

441—98.27(252B) Administrative seek employment order duration of order. The seek employment order will remain in effect for three months from the date of issuance unless child support services determines the obligor has a valid reason for noncompliance as specified at rule 441—98.25(252B), at which time the order becomes unenforceable.

Upon acceptance of the reason for noncompliance, child support services will notify the obligor that the obligor is no longer required to comply with the seek employment order. Upon denial of the reason for noncompliance, child support services will notify the obligor that the obligor will comply with the existing seek employment order. The notice will be filed with the clerk of the district court. If the obligor disputes this decision, the obligor will have recourse through the district court.

441—98.28(252B) Setoff against payment owed to a person by a state agency. The department will make a claim pursuant to 701—Chapter 26 against a payment owed to an obligor by a state agency when support is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against a payment owed to an obligor will be applied to court-ordered support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.28(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least $50 in support payments to the department of revenue.

98.28(2) *Distribution of setoff amount.* Setoffs will be applied in accordance with rules 441—95.3(252B) and 441—95.4(252B).

98.28(3) *Percentage of payment setoff.* The amount of setoff will be 50 percent of the total payment due the obligor unless the payment results from lottery winnings, from gambling winnings, from sports wagering winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of setoff will be 100 percent of the payment. The amount taken will not exceed the delinquent amount owed by the obligor.

441—98.29(252B) Setoff against state income tax refund or rebate. The department will make a claim pursuant to 701—Chapter 26 against an obligor's state income tax refund or rebate when support is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against an obligor's state income tax refund or rebate will apply to support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.29(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least $50 in support payments to the department of revenue.

98.29(2) *Refunds.* The department will refund any amount incorrectly setoff to the department of revenue or to the obligor pursuant to 701—subrule 26.7(6). The obligor may agree in writing to apply the refund of the incorrect setoff to any other support obligation due in cases where child support services would otherwise refund the setoff directly to the obligor.

98.29(3) *Distribution of setoff amount.* Setoffs will be applied as provided in rule 441—95.3(252B).

441—98.30(252B) Offset against federal income tax refund and federal nontax payment. The department will make a claim against an obligor's federal income tax refund or federal nontax payment

when delinquent support is owed. For purposes of this offset, delinquent support will include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4). Any offset received as the result of a claim against an obligor's federal income tax refund or federal nontax payment will apply to support that child support services is attempting to collect pursuant to Iowa Code chapter 252B.

98.30(1) *Amount of assigned support.* If the delinquent support is assigned to the department, the amount of delinquent support will be at least $150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least $50.

98.30(2) *Amount of nonassigned support.* If delinquent support is not assigned to the department, the claim will be made if the amount of delinquent support is at least $500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least $50.

a. The amount distributed to an obligee will be the amount remaining following payment of a support delinquency assigned to the department. The department will distribute to an obligee the amount collected from an offset according to subrule 98.30(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later.

(3) However, the department is not mandated to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offsets will be applied as provided in rule 441—95.3(252B).

98.30(3) *Notification to federal agency.* The department will, as permitted or specified by federal regulations, submit notification(s) of liability for delinquent support to the federal Office of Child Support Services.

98.30(4) *Preoffset notice and review.* Each obligor who does not have an existing support debt on record with the federal Office of Child Support Services will be sent a preoffset notice in writing, using address information provided to the federal Office of Child Support Services, stating the amount of the delinquent support certified for offset.

a. Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

b. Upon receipt of a complaint from the individual disputing the submission for offset, child support services will conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days.

98.30(5) *Recalculation of delinquency.* When the records of the department differ from those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, records of payments made pursuant to state law, and will recalculate the delinquency.

98.30(6) *Notification of modification or elimination.* The department will notify the federal Office of Child Support Services, within time frames established by the federal Office of Child Support Services, of any modification or elimination of an amount referred for offset.

98.30(7) *Failure to timely respond.* When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the individual must wait for corrective action as specified in subrule 98.30(8).

98.30(8) *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When child support services receives information from the federal Office of Child Support Services regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department will issue to that individual a form prescribed by the department.

a. The individual whose name was submitted for federal offset will have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal will be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

b. The department will refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification means a listing from the federal Office of Child Support Services containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

c. The department will refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

98.30(9) *Application of offsets.* Offsets of federal income tax refunds will be applied to delinquent support only. The department will first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department will then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

441—98.31(252I) Administrative levy. When there is a delinquency in an amount equal to the ordered support payable for one month, child support services may issue an administrative levy pursuant to Iowa Code chapter 252I and according to Rule of Civil Procedure 1.442.

441—98.32(252J) Referral for license sanction. In the process referred to as license sanction, child support services may refer an individual to a licensing agency for the suspension, revocation, nonissuance, or nonrenewal of a variety of licenses, including but not limited to motor vehicle registrations; driver's licenses; business and professional licenses; and licenses for hunting, fishing, boating, or other recreational activity. In order to be referred to a licensing agency for license sanction, one of the following must apply:

98.32(1) *Delinquent support payments.* An obligor's support payments must be delinquent in an amount equal to the support payment for three months. Child support services will not refer obligors whose support payments are being made under an income withholding order.

98.32(2) *Subpoena or warrant.* An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with a form prescribed by the department or an Interstate Subpoena as provided in 441—subrule 96.2(1) within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure 1.442.

441—98.33(252J) Reasons for exemption from license sanction. Certain conditions will be considered valid reasons for exemption from the license sanction process. Upon verification of these conditions, child support services will bypass, exempt, or withdraw the individual's name from referral to licensing agencies for the purpose of applying a license sanction. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the individual will provide, verification of the reason for exemption. Valid reasons for exemption for failure to comply with a subpoena or warrant and acceptable verification are those listed in subrules 98.33(2), 98.33(3), 98.33(5), and 98.33(6). Valid reasons for exemption for delinquent support payments and acceptable verification are any of the following:

98.33(1) *Receipt of social security, supplemental security income (SSI) or FIP.* Receipt of social security, SSI, FIP, or county assistance (general relief, general assistance, community services, and veteran's assistance), based upon the eligibility of the obligor, is considered a valid reason for exemption when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.33(2) *Temporary illness or disability.* Temporary illness or disability of the individual or illness or disability of another household member that requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed form prescribed by the department verifying the individual's or household member's inability to work.

98.33(3) *Incarceration.* Incarceration is considered a valid reason for exemption when verified through online information available to child support services or upon receipt of verification from the institution.

98.33(4) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition Assistance Program is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through online information available to child support services or upon receipt of a written statement from an income maintenance worker.

98.33(5) *Chemical dependency treatment.* Participation in a chemical dependency treatment program that is licensed by the department or the joint commission (TJC) is considered a valid reason for exemption upon receipt of written verification from the professional staff of the program that participation in the program precludes the individual from working.

98.33(6) *Contempt process.* Involvement in a contempt action dealing with support issues is considered a valid reason for exemption from the license sanction process during the pendency of the contempt action.

441—98.34(252J) Notice of potential sanction of license. When an individual meets the criteria for selection, child support services may issue a notice to the individual of the potential sanction of any license held by the individual pursuant to Iowa Code chapter 252J using a form prescribed by the department.

441—98.35(252J) License sanction conference.

98.35(1) *Scheduling of conference.* Upon receipt from an individual of a written request for a conference, child support services will schedule a conference not more than 30 days in the future. At the request of either child support services or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under rule 441—98.34(252J), child support services will request the completion of a form prescribed by the department and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

98.35(2) *Payment calculation.* If notice was sent to an obligor under rule 441—98.34(252J) during the conference held in compliance with the provisions of Iowa Code section 252J.4, child support services will determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, with the exception of 441—subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation, child support services may schedule an additional conference no less than ten days in the future in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, child support services will issue a certificate of noncompliance to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, child support services will use whatever information is available. If no income information is available for the obligee, child support services will determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only and does not modify the amount of support obligation contained in the underlying court order.

98.35(3) *Referral for review and adjustment.* If the amount calculated in subrule 98.35(2) meets the criteria for review and adjustment as specified in rule 441—101.4(252B,252H), or administrative modification as specified in rule 441—101.12(252H) and 441—subrules 101.13(1), 101.13(2) and 101.13(6) at the time child support services provides the payment agreement to the obligor, child support services will also provide the obligor with any necessary forms to request a review and adjustment or

administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

441—98.36(252J) License Sanction Payment Agreement. The License Sanction Payment Agreement will require the obligor to pay the lower of the amount calculated in subrule 98.35(2) or the maximum amount payable under an income withholding order as specified in rule 441—98.7(252D).

98.36(1) *Duration of payment agreement.* The License Sanction Payment Agreement signed under this chapter will remain in effect for at least one year from the date of issuance unless child support services determines the obligor has a valid reason for exemption as specified in rule 441—98.33(252J). Except in those cases in which review and adjustment are in process, child support services may, at the end of the year, begin the process of reviewing the case so that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.35(1).

98.36(2) *Failure to comply.* If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, child support services will issue a form prescribed by the department to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

441—98.37(252J) Staying the process of license sanction due to full payment of support. If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, child support services will stay the process, and any form issued by the department will be withdrawn by child support services.

441—98.38(252J) Duration of license sanction. Forms issued by the department will remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with child support services; or the obligor meets one of the criteria for exemption specified at subrules 98.33(1), 98.33(2), and 98.33(4); or the individual complies with the subpoena or warrant.

441—98.39(252B) Procedures for providing information to consumer reporting agencies. Child support services may make information available to consumer reporting agencies regarding the amount of delinquent support owed by a responsible person, but only in cases where the delinquent support exceeds $1,000. However, before child support services will release the information to a consumer reporting agency, the agency must meet the requirements for a nationwide consumer reporting agency under Iowa Code section 252B.9(3)*"j."*

98.39(1) *Request of information.* Agencies may request the information from the department. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of $1,000.

98.39(2) *Notice of proposed release of information.* A notice of proposed release of information will be sent to the last-known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice will explain the information to be released and the methods available for contesting the accuracy of the information.

98.39(3) *Contesting proposed release of information.* The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with child support services to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases, no referral will be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed $1,000.

441—98.40(252B) Difficult-to-collect arrearages. Child support services may refer difficult-to-collect arrearages to a collection entity under contract with child support services or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in Iowa Code chapter 252B.

98.40(1) *Difficult-to-collect arrearage.* A difficult-to-collect arrearage is one based upon a court or administrative order that meets all the following criteria:

a. There is no order for current support and only an arrearage is owing.

b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.

c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.33(1), 98.33(3), and 98.33(6). Upon verification of those conditions, child support services will bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the obligor will provide, verification of the reason for exemption.

98.40(2) *Notice of the possibility of referral and surcharge.* Child support services will provide notice of the possibility of a referral and surcharge to the obligor as mandated by Iowa Code chapter 252B. The notice will be provided at least 15 days before child support services sends the notice of referral and surcharge to the obligor, subject to the following:

a. Notification contained in order. When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice will be required.

b. Notification issued by child support services. When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, child support services will issue a notice to the obligor pursuant to Iowa Code section 252B.23.

98.40(3) *Notice of referral and surcharge.* Child support services will send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure 1.442. The notice will contain all the information mandated by Iowa Code chapter 252B. The notice will be sent at least 30 days before child support services refers the arrearage to the collection entity.

98.40(4) *Contesting the referral and surcharge.* An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact, including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.40(3), a mistake as to whether an exemption in paragraph 98.40(1)*"c"* applies, or a mistake in the amount of arrearages.

a. An obligor may contest the referral and surcharge by submitting a written request for a review to child support services within 20 days of the date on the notice of referral and surcharge specified in subrule 98.40(3). Upon receipt of a written request for review, child support services will follow the criteria and procedures specified in Iowa Code chapter 252B for resolving the request.

(1) If child support services determines there is a mistake in the identity of the obligor, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, child support services will issue a written notice to the contestant or obligor of the determination and not refer the arrearages. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If child support services determines there was a mistake in the amount of arrearages, but the corrected amount of arrearages will still be referred, or if child support services determines there is no mistake of fact, child support services will issue a written notice of the determination of the review to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearages that will be referred and the surcharge that will be assessed. The notice will also include information on requesting an additional review by the department, and on requesting a judicial hearing.

b. An obligor may contest the notice of determination of review by submitting a written request for an additional review by the department within 20 days of the date of the notice of determination of the review issued under paragraph 98.40(4)*"a."* Upon receipt of the written request for additional review, child support services will review the facts of the case.

(1) If the department determines a mistake in the identity of the obligor has occurred, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, the department will issue a written notice to the contestant or obligor of the determination and the arrearages will not be referred. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If the department determines that there was a mistake in the amount of the arrearage but the corrected amount of arrearages will still be referred, or if there is no mistake of fact, the department will send a written notice of the additional review determination to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearage that will be referred and the surcharge that will be assessed. The notice will also include information on requesting a judicial hearing.

c. Following the issuance of a notice of determination of a review under paragraph 98.40(4)*"a,"* or issuance of a notice of determination of an additional review under paragraph 98.40(4)*"b,"* the obligor may request a district court hearing. The obligor will make a request by sending a written request for a hearing to child support services within ten days of the date of the department's written determination of the review, or within ten days of the date of child support services' written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in Iowa Code chapter 252B.

d. Child support services will not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

98.40(5) *Referral and surcharge.*

a. If the obligor has not paid the arrearage, has not contested the referral, or if, following child support services review, the department's additional review, and any judicial hearing, child support services, or court does not find a mistake of fact, the arrearage will be referred to the collection entity.

b. The amount of the arrearage referred will be the amount that is unpaid as of the date of the referral. The amount of the surcharge will be an amount equal to the amount of the arrearage unpaid as of the date of the referral, multiplied by the percentage specified in the contract with the collection entity.

c. Child support services will file a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed.

441—98.41(252B) Enforcement services by private attorney entitled to state compensation. An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in Iowa Code chapter 252B.

98.41(1) *Eligible cases.* To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

a. Child support services is providing services under Iowa Code chapter 252B.

b. The current support obligation is terminated and only arrearages are due under the administrative or court order.

c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to child support services under paragraph 98.41(1)*"f."*

d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under Iowa Code chapter 252B.

e. The case does not have any of the following characteristics:

(1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3.

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified child support services of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time to

receive the collection has not expired or child support services has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

(4) If the notice from the attorney under paragraph 98.41(1)*"f"* specifies contempt of court as the judicial proceeding, and child support services has generated an administrative seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by child support services to a collection entity under Iowa Code section 252B.5(3) less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph 98.41(1)*"f"* lists a specific judicial proceeding and child support services has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney's office and is still pending at that office.

f. The attorney has provided written notice to the central office of child support services, and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

g. The attorney has provided documentation of insurance to child support services as mandated by Iowa Code chapter 252B.

h. The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph 98.41(1)*"f,"* or within a subsequent 90-day extension period.

98.41(2) *Procedure.*

a. To begin the process under this rule, the attorney shall submit the following to the department at least 30 days prior to initiating the specified judicial proceeding:

(1) A dated, written statement that lists the specific judicial proceeding that the attorney intends to initiate, any court or administrative order under which the arrearages accrued identified by the order number, and the names of the obligor and obligee.

(2) Documentation that the attorney is insured as mandated by the statute. Documentation shall be either a copy of the attorney's policy from the insurer, or a letter from the insurer verifying insurance coverage as mandated by the statute.

(3) Documentation that the attorney is licensed to practice law in Iowa.

b. Child support services will mail a response to the attorney within ten days of receipt of the notice from the attorney. All of the following will apply to the child support services response:

(1) If the case meets the requirements of this rule, the notice will list the case number, any order numbers, the judicial proceeding specified by the attorney, the balance due the state of Iowa, the balance due an obligee, and the date that is 90 days from the date of the notice from the attorney. The notice will also contain a statement that any compensation due the attorney as a result of application of this rule will be calculated on the amount of support credited to arrearages due the state at the time the support paid as a result of the judicial proceeding is received by the collection services center. The notice will also contain a statement that any support collected will be disbursed in accordance with federal requirements, and any support due the obligee will be disbursed to the obligee prior to disbursement to the attorney as compensation.

(2) If the case does not meet the requirements of this rule, the notice will list the case number, any order number, and the reason the case does not meet the requirements.

c. If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to child support services in paragraph 98.41(2)*"a."* Iowa Code chapter 252B defines "judicial proceedings."

d. The attorney may extend the time to complete the judicial proceeding or to allow for receipt of the collection by the collection services center by submitting a notice requesting a 90-day extension to the address in paragraph 98.41(2)*"a."* This or any subsequent notice must be received by child support services before expiration of the current 90-day time frame. Child support services will acknowledge receipt of the subsequent notice and list on the acknowledgment the date that is 90 days from the date of the attorney's subsequent notice.

98.41(3) *Collection and payment to attorney.*

a. Upon compliance with the requirements of Iowa Code chapter 252B and this rule, the attorney will be entitled to compensation from the state as provided for in this rule.

b. Upon receipt of a file-stamped copy of a court order that identifies the amount of support collected as a result of the judicial proceeding and that does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) Iowa Code chapter 252B specifies the formula to calculate the compensation due the attorney from the state. Child support services will calculate the compensation due the attorney based upon the amount of support that is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, child support services will reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state as a result of any other judicial proceeding initiated by that attorney under Iowa Code chapter 252B. Child support services will send the attorney a notice of the amount of the compensation due from the state.

(2) The collection services center will disburse any support due an obligee prior to payment of compensation to the attorney.

(3) Child support services will not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.

(4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

441—98.42(17A) Right of appeal.

98.42(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 will be limited to the following issues:

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.

b. A name has been certified for passport sanction as provided in Iowa Code section 252B.5.

98.42(2) A hearing will not be granted under 441—Chapter 7 when the appellant has a complaint about child support services enforcement matters other than those described in this rule.

441—98.43(17A) Appeal record. The record in an administrative appeal under this rule will include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal and the verbatim record of the hearing.

These rules are intended to implement Iowa Code sections 96.3, 252B.9, 252B.21, 252B.5, 252B.3, 252B.4, and 8A.504; chapters 252D, 252E, 252I, 252J, and 17A; and 15 U.S.C. Section 1673(b).

ARC 8557C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to child support guidelines and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 99, "Support Establishment and Adjustment Services," and to adopt a new Chapter 99, "Child Support Guidelines," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 252B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 252B.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter sets process standards and guidelines for determining income of a parent. This chapter was previously Division I of 441—Chapter 99 (additional divisions, beyond Division I, have been restructured and repromulgated into 441—Chapters 100, 101, and 102).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 99 and adopt the following **new** chapter in lieu thereof:

CHAPTER 99
CHILD SUPPORT GUIDELINES

441—99.1(234,252B,252H) Income considered. Child support services will consider all regularly recurring income of both legal parents to determine the amount of the support award in accordance with the child support guidelines prescribed by the Iowa Supreme Court. Spousal support will be considered as specified in the Iowa Supreme Court guidelines and prior obligation spousal support actually paid or received will be calculated in the same manner as the deductions for support in subrule 99.2(1). These rules on child support guidelines will not apply if child support services is determining the support amount by a cost-of-living alteration as provided in Iowa Code chapter 252H, subchapter IV.

99.1(1) *Exempt income.* The following income of the parent is exempt in the establishment or modification of support:

a. Income received by the parent under the family investment program (FIP).

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(239B) as exempt from consideration in determining eligibility under FIP.

c. Income such as child support, social security dependent benefits received by a parent for a child because of the other parent's disability, and veteran's dependent benefits received by a parent on behalf of a child.

d. Stepparent's income.

e. Income of a guardian who is not the child's parent.

f. Income of the child's siblings.

g. Earned income tax credit.

99.1(2) *Determining income.* Any of the following may be used in determining a parent's income for establishing or modifying a support obligation:

a. Income reported by the parent in a financial statement.

b. Income established by any of the following:

(1) Income verified by an employer or other source of income.

(2) Income reported to the department of workforce development.

(3) For a public assistance recipient, income reported to the department of health and human services caseworker assigned to the public assistance case.

(4) Other written documentation that identifies income.

c. Income as determined through occupational wage rate information published by the Iowa workforce development department or other state or federal agencies.

d. The median income for parents on the child support services caseload, calculated annually.

e. Social security dependent benefits. Social security dependent benefits paid for a child because of a parent's disability will be included in the disabled parent's income. Social security dependent benefits paid for a parent due to the other parent's disability will be included in the receiving parent's income.

99.1(3) *Verification of income.* Verification of income and allowable deductions from each parent will be requested.

a. Verification of income may include but is not limited to the following:

(1) Federal and state income tax returns.

(2) W-2 statements.

(3) Pay stubs.

(4) Signed statements from an employer or other source of income.

(5) Self-employment bookkeeping records.

(6) Award letters confirming entitlement to benefits under a program administered by a government or private agency such as social security, veterans' or unemployment benefits, military or civil service retirement or pension plans, or workers' compensation.

b. Cases in which the information or verification provided by a parent is questionable or inconsistent with other circumstances of the case may be investigated. If the investigation does not reveal any inconsistencies, the financial statement and other documentation provided by the parent will be used to establish income.

c. If discrepancies exist in the financial statement provided by the parent and additional income information is not available, child support services may:

(1) Request a hearing before the court if attempting to establish a support order through administrative process.

(2) Conduct discovery if a parent places the matter before the court by answering a petition or requesting a hearing before the court.

(3) When attempting to establish a default order, provide the court with a copy of the parent's financial information and the reasons the information may be questionable.

d. If child support services is unable to obtain verification of a parent's income, the financial statement provided by the parent may be used to establish support.

99.1(4) *Use of occupational wage rate information or median income for parents on the child support services caseload.* Child support services will use occupational wage rate information or median income for parents on the child support services caseload to determine a parent's income when the parent has failed to return a completed financial statement when requested, and when complete and accurate income information from other readily available sources cannot be secured. If a parent's most recent residential address is in Iowa, child support services will use Iowa workforce development regional data to determine income. If a parent's most recent residential address is in another state, the District of Columbia, or Puerto Rico, child support services will use wage data from the place of the parent's most recent residence to determine income. For all other cases, child support services will use Iowa statewide occupational wage rate or median income for parents on the child support services caseload to determine income.

a. Occupation known. When child support services can reasonably ascertain the current or last-known occupation of a parent, child support services will use occupational wage rate information to determine income. Wage rate information will be converted to a monthly amount in accordance with subrule 99.3(1).

b. Occupation unknown. When child support services cannot reasonably ascertain the current or last-known occupation of a parent, child support services will determine the income of a parent using the median income amount for parents on the child support services caseload, based upon the parent's most recent residential address.

99.1(5) *Self-employment income.* A self-employed parent's adjusted gross income, rather than the net taxable income, will be used in determining net income. The adjusted gross income will be computed by deducting business expenses involving actual cash expenditures that affect the actual dollar income of the parent.

a. A person is self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person's own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service (IRS).

b. In calculating net income from self-employment, child support services will deduct only those items allowed by the child support guidelines. Amounts from a prior period claimed as net losses will not be allowed as deductions.

c. Net profits from self-employment may be determined through a review of self-employment bookkeeping records, sales and expenditure records, quarterly reports filed with the IRS, previous year's federal or state income tax returns, or other documentation. The parent must provide records of bookkeeping, sales, and expenditures for the most recent 12-month period or, if the self-employment is less than 12 months old, for the period since the self-employment began.

99.1(6) *Fluctuating income.* A person has a fluctuating income when the calculated gross income or the adjusted gross income, as defined in subrule 99.1(5), for the current year varies from the gross or adjusted gross income of the previous year by more than 20 percent.

a. If requested, child support services will average the income of a person whose income fluctuated because the nature of the person's occupation is of a type that normally experiences fluctuations in income.

b. In determining a person's average income, the following procedures will be used:

(1) For non-self-employed persons, child support services will estimate the gross income for the current year and add the amount to the gross income from relevant years that would accurately depict fluctuations in the person's income. Child support services will divide this sum by the number of years added, prior and current, to arrive at an average gross annual income. Child support services will divide the average gross annual income by 12 to arrive at the person's average gross monthly income.

(2) For income from self-employment, child support services will compute the adjusted gross annual income as defined in subrule 99.1(5) for the relevant years that would accurately depict fluctuations in the person's income. Child support services will use the adjusted gross annual income to compute the average adjusted gross monthly income in the same manner as the computation of average gross monthly income for a non-self-employed person.

441—99.2(234,252B) Allowable deductions. The deductions specified in the Iowa Supreme Court child support guidelines will be allowed when determining the amount of income subject to application of the guidelines. The parent claiming the deduction must provide the documentation necessary for computing allowable deductions. When applying the deductions specified in the Iowa Supreme Court guidelines, the following will also apply:

99.2(1) In determining the amount of child support actually paid pursuant to a prior court or administrative order, the date of the original court or administrative order, rather than the date of any modifications, will determine whether it is a prior order. Support paid under an order established subsequent to the order being modified will not be deducted. All support payments will be verified before being allowed as a deduction. Child support services will calculate deductions for support as follows:

a. If the obligation is one year old or older, child support services will add together all verified amounts paid during the past 12 months preceding the current month up to the total of the current support obligation that accrued during this 12-month period, and divide by 12. All amounts collected will be included, regardless of the source.

b. If the support obligation is less than one year old, child support services will add together the verified amounts paid since the obligation began up to the total of the current support obligation that accrued during this period, and divide by the number of months that the obligation has existed.

c. When a parent has more than one prior support order, child support services will calculate the allowable deduction for each obligation separately, and then add the amounts together to determine the parent's total allowable deduction.

99.2(2) Health insurance premium costs will be verified before being allowed as a deduction.

99.2(3) Child support services will determine the amount of the deduction for actual child care expenses as follows:

a. 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 person or agency providing the child care.

b. Only the amount of reported child care expenses in excess of the amount allowed as "credit for child and dependent care expenses" for federal income tax purposes will be allowed as a deduction in determining the custodial parent's net income.

c. In determining the deduction allowed to the custodial parent for child care expenses, the following procedures will be used:

(1) If the custodial parent provides a copy of a federal income tax return for the current tax processing year and the amount is consistent with the current financial circumstances of the parent, child support services will use the amount reported as "credit for child and dependent care expenses."

(2) If income tax information is not available, or if the parent indicates or there is reason to believe that the amount stated in the return is no longer representative of the parent's financial conditions or child care expenses, child support services will determine the allowable deduction for child care expenses for federal income tax purposes using the custodial parent's income only.

d. Child support services will compute the child care deduction as follows:

(1) Divide the amount of child care expense the parent may claim as a deduction for federal income tax purposes by 12 to arrive at a monthly amount.

(2) If the child care expense reported on the financial statement is not a monthly amount, convert the reported amount to an equivalent monthly figure and round the figure to two decimal places.

(3) Subtract the amount the parent may claim as "credit for child and dependent care expenses" for federal income tax from the amount of child care expenses reported on the financial statement. The difference is the amount allowed for a deduction in determining income for child support.

99.2(4) A qualified additional dependent deduction will be allowed for dependents of the custodial or noncustodial father or mother, whether in or out of the parent's home. The father may establish the deduction by providing written verification of a legal obligation to the child through one of the actions enumerated in the guidelines. The mother may establish the deduction by providing written verification of a legal obligation to the child, including a written statement by the mother or a birth certificate.

99.2(5) All cash medical support payments for other children, not in the pending matter, will be verified before being allowed as a deduction and will be calculated in the same manner as the deductions for support in subrule 99.2(1).

441—99.3(234,252B) Determining net income. Unless otherwise specified in these rules, child support services will determine net income as prescribed by the Iowa Supreme Court guidelines.

99.3(1) *Calculating net income.* All allowable income and allowable deductions will be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly will be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2.

99.3(2) *Estimating net income.*

a. The estimated net income of a parent will be 80 percent of the reported income or the estimated income as determined from occupational wage rate information or derived from the median income of parents on the child support services caseload, as appropriate, to account for an estimate of the Iowa Supreme Court guidelines deductions for federal and state taxes and Social Security and Medicare taxes. The parent will also be entitled to additional deductions allowed by the guidelines when the information to calculate these deductions is readily available through automated or other sources.

b. The net income of a parent will be estimated under the following conditions:

(1) Gross earned income information was obtained from a source that did not provide itemized deductions allowed by the mandatory support guidelines.

(2) Occupational wage rate information or median income of parents on the child support services caseload was used to determine a parent's income.

441—99.4(234,252B) Applying the guidelines.

99.4(1) *Applying the guidelines.* Child support services will use the child support guidelines schedule as prescribed by the Iowa Supreme Court only for the number of children for whom support is being sought sharing the same two legal parents.

Exception: For foster care recovery cases, the guidelines schedule will be used as set forth in subrule 99.5(4).

99.4(2) *Establishing current support.*

a. Calculation. Child support services will calculate the amount of support as prescribed by the Iowa Supreme Court guidelines. Round amount of support to the nearest whole dollar.

b. Additional factors.

(1) In all cases other than foster care, child support services will establish current support payable in monthly frequencies.

(2) In foster care cases, child support services may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, child support services will divide the figure in paragraph 99.4(2)*"a"* by 4.33 and round to the nearest whole dollar.

(3) If the court orders joint (equally shared) physical care of a child or split or divided physical care of multiple children, child support services will calculate current support according to the Iowa Supreme Court guidelines for each parent assuming the other is the custodial parent. If a child begins receiving family investment program (FIP) benefits or if foster care funds are expended, an offset of the two amounts as a method of payment will be disallowed.

(4) The amount of support will be zero if the noncustodial parent's only income is Supplemental Security Income paid pursuant to 42 U.S.C. 1381a (as amended to August 1, 2024).

99.4(3) *Establishing accrued support debt amount.*

a. Support debt created. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates an accrued support debt due and owing by the child's parent to the department. The amount of the accrued support debt is based on the period of time public assistance payment or foster care funds were expended, but is not created for the period of receipt of public assistance on the parent's own behalf for the benefit of the dependent child or the child's caretaker.

b. Calculating accrued support debt. Child support services will calculate the accrued support debt as follows:

(1) For FIP benefits, child support services will use the period for which FIP was paid during the 36 months preceding the date the notice of support debt is prepared or the date the petition is filed. For foster care assistance, child support services will use the three-month period for which foster care assistance was paid prior to the date the initial notice to the noncustodial parent of the amount of support obligation is prepared, or the date a written request for a court hearing is received, whichever is earlier.

(2) Child support services will exclude periods the noncustodial parent received public assistance as a part of this eligible group.

(3) Child support services may extend the period to include any additional periods public assistance is expended prior to the entry of the order.

(4) Child support services will calculate the amount of the obligation by using the current net income of both parents, the guidelines in effect at the time the order is entered, and the number of children of the noncustodial parent who were receiving public assistance for each month for which accrued support is sought.

(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.

(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 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 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 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 support that would have been due if such an obligation had been established.

99.4(4) *Children in nonparental homes or foster care.* The parents of a child in a nonparental home or in foster care are severally liable for the support of the child. A support obligation will be established separately for each parent.

a. Parents' location known. When the location is known for both parents having a legal obligation to provide support for their children, the income of both parents will be used to determine the amount of ongoing support in accordance with the child support guidelines.

(1) Calculating support amount. There will be a separate calculation of each parent's child support amount, regardless of whether the parents are married and living together, or living separately. Each calculation will assume that the parent for whom support is being calculated is the noncustodial parent and the other parent is the custodial parent.

(2) Prior orders. If only one parent is paying support under a prior order for the children for whom support is being calculated, the amount of support paid will not be deducted from that parent's net monthly income in computing the support amount for the other parent.

b. One parent's location unknown. When the location of one parent is not known, procedures will be initiated to establish a support order against the parent whose location is known in accordance with the mandatory support guidelines as follows:

(1) The parent whose location is known will be considered the noncustodial parent and that parent's income will be used to calculate child support.

(2) The income of the parent whose location is unknown will be determined by using the estimated median income for parents on the child support services caseload and that parent will be considered the custodial parent in calculating child support.

c. When one parent is deceased or has had parental rights terminated, the method used to calculate support when one parent's location is not known will be used. The parent who is deceased or has had parental rights terminated will be considered the custodial parent with zero income.

99.4(5) *Adjustment for extraordinary visitation or parenting time.* Child support services will calculate an extraordinary visitation or parenting time credit as specified in the Iowa Supreme Court guidelines. The credit will not reduce the child support below the amount required by the Iowa Supreme Court guidelines.

The extraordinary visitation adjustment or parenting time credit will be given if all of the following apply:

a. There is an existing order for the noncustodial parent that meets the criteria for extraordinary visitation or parenting time in excess of 127 overnights per year on an annual basis for the child for whom support is sought. The order granting visitation or parenting time can be a different order than the child support order. If a controlling order is determined pursuant to Iowa Code chapter 252K and that controlling support order does not meet the criteria for extraordinary visitation or parenting time, there is another order that meets the criteria.

b. The noncustodial parent has provided child support services with a file-stamped or certified copy of the order.

c. The court has not ordered equally shared physical care.

99.4(6) *Establishing medical support.* Child support services will calculate medical support as required by Iowa Code chapter 252E and the Iowa Supreme Court guidelines. The cost of the health insurance premium for the child is added to the basic support obligation and prorated between the

parents as provided in the Iowa Supreme Court guidelines and the parent ordered to provide health insurance must provide verification of this expense or anticipated expense.

441—99.5(234,252B) Deviation from guidelines.

99.5(1) *Criteria for deviation.* The court will not vary from the amount of child support that would result from application of the guidelines without a written finding as required by the Iowa Supreme Court guidelines.

99.5(2) *Supporting financial and legal documentation.*

a. The party requesting a deviation from the guidelines must provide supporting documentation. The supporting documentation must include an itemized list identifying the amount and nature of each adjustment requested. Failure to provide supporting documentation for a request for deviation will result in a denial of the request.

b. Legal documents prepared for the court's approval, such as stipulations and orders for support, will include language to identify the following:

(1) The amount of support calculated under the guidelines without allowance for deviations.

(2) The reasons for deviating from the guidelines.

(3) The amount of support calculated after allowing for the deviation.

99.5(3) *Depreciation.* A parent may request a deduction for depreciation of machinery, equipment, or other property used to earn income. Straight-line depreciation will be the only type of depreciation that will be allowed as a deduction. Child support services will allow the straight-line depreciation amount as a deduction if the parent provides documentation from a tax preparer verifying the amount of straight-line depreciation being claimed. Straight-line depreciation is computed by deducting the property's estimated salvage value from the cost of the property, and deducting that figure in equal yearly amounts over the period of the property's remaining estimated useful life.

99.5(4) *Foster care case.* In a foster care case, child support services may deviate from the guidelines by applying a 30 percent flat rate deduction for parents who provide financial documentation. The flat rate deduction represents expenses under the case permanency plan and financial hardship allowances or other circumstances contemplated in Iowa Code section 234.39.

Child support services will calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows: The support obligation of each parent will be calculated by allowing all deductions the parent is eligible for under the child support guidelines as provided in rule 441—99.2(234,252B) and by using the guidelines schedule corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. The calculated support amount will be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

99.5(5) *Negotiation of accrued support debt.* Child Support Services may negotiate with a parent to establish the amount of accrued support debt owed to the department. In negotiating accrued support, the state does not represent the custodial parent. The custodial parent may intervene at any time prior to the filing of the order to contest the amount of the debt or request the entry of a judgment in the parent's behalf that may otherwise be relinquished through negotiation or entry of a judgment.

441—99.6(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code sections 234.39, 252B.3, 252B.5, 252B.7A, and 598.21(4).

ARC 8561C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to establishment of paternity and support and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 100, "Child Support Promoting Opportunities for Parents Program," and to adopt a new Chapter 100, "Establishment of Paternity and Support," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter sets process standards, some of which are not found in the Iowa Code, for Child Support Services when providing administrative or procedural services related to child support establishment. Previously titled "Child Support Promoting Opportunities for Parents Program," which was moved to 441—Chapter 94, this chapter now contains Division II and Division III of 441—Chapter 99 and was retitled.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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 441—Chapter 100 and adopt the following **new** chapter in lieu thereof:

CHAPTER 100
ESTABLISHMENT OF PATERNITY AND SUPPORT

441—100.1(598,600B) Definitions.

"Disestablishment" means paternity that is legally overcome under the conditions specified in Iowa Code section 600B.41A, 232.3A, or 598.21E.

"Nonrequesting parent" means a parent who is not filing a petition to overcome paternity.

"Requesting parent" means a parent who files a petition to overcome paternity.

441—100.2(252A) Temporary support. If a court ordered a putative father to pay temporary support before entering an order making a final determination of paternity under Iowa Code section 252A.6A, but then the court determines that the putative father is not the legal father and enters an order terminating the temporary support, all the following apply:

100.2(1) *Satisfaction of accrued support.* Upon receipt of a file-stamped copy of the order terminating the support order, child support services will take the following actions concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver or notice, Child Support Services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court.

100.2(2) *Previously collected moneys.* Child support services will not return any moneys previously paid on the temporary support judgment.

441—100.3(252F) When paternity may be established administratively. Child support services may seek to administratively establish paternity and accrued or accruing child support and medical support obligations against an alleged father when the conditions specified in Iowa Code chapter 252F are met.

441—100.4(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker. Child support services will obtain a form prescribed by the department from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. Government records, including but not limited to an application for public assistance, that substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing a form prescribed by the department, the mother acknowledges that child support services may initiate a paternity action against the alleged father. The mother must sign and return the form prescribed by the department to child support services within ten days of the date of child support services' request.

441—100.5(252F) Notice of alleged paternity and support debt. Following receipt of a form prescribed by the department or government records, including but not limited to an application for public assistance, that substantially meet the requirements of Iowa Code section 622.1, child support services will serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

441—100.6(252F) Conference to discuss paternity and support issues. A party may request a conference as provided in Iowa Code section 252F.3(1) with the office that issued the notice to discuss paternity establishment and the amount of support the father may be required to pay.

441—100.7(252F) Amount of support obligation. Child Support Services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

441—100.8(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—100.5(252F), a written statement contesting paternity to the address of Child Support Services as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after child support services mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of child support services as set forth in the notice. When paternity is contested, or at child support services' initiative, child support services will issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing. If the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be used for testing in this action.

441—100.9(252F) Paternity test results challenge. Either party or child support services may challenge the results of the paternity test by filing a written notice with the district court within 20 calendar days after child support services issues or mails the paternity test results to the parties. When a party challenges the paternity test results, and requests an additional paternity test, child support services will order an additional blood or genetic test, if the party requesting the additional test pays for the additional testing in advance. If the party challenges the first paternity test results, but does not request additional tests, child support services may order additional blood or genetic tests.

441—100.10(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with child support services on the entry of an order for support, the father may acknowledge his consent on a form prescribed by the department . If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, child support services may file the form, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

441—100.11(252F) Entry of order establishing paternity only. If a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, child support services will prepare an order establishing paternity and reserving the support issues for determination by the court. Child support services will present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

441—100.12(252F) Exception to time limit. Child Support Services may accept and respond to written requests for court hearings beyond the time limits allowed in this part.

441—100.13(252F) Genetic test costs assessed.

100.13(1) *Paternity established.* If genetic testing of an alleged father is conducted and that man is established as the child's father, child support services will assess the costs of the genetic testing to the father who denied paternity and enter an order for repayment of these costs.

100.13(2) *Paternity not established.* If genetic testing of an alleged father is conducted and that man is not established as the child's father, the costs of the genetic testing will not be assessed to any of the parties.

100.13(3) *Results contested.* If the results of the genetic testing are timely challenged and the challenging party requests additional testing, the party contesting the results must advance the cost of the additional testing. If the challenging party does not advance payment for the additional testing, child support services will certify the case to district court.

441—100.14(598,600B) Communication between parents. When a parent who has filed a petition to disestablish paternity requests assistance from child support services in contacting the other parent, child support services will take the following actions if services are being provided by child support services, the location of the nonrequesting party is known, and child support services has been provided a copy of the petition to disestablish paternity:

100.14(1) *Written contact.* Child support services will send written notification to the nonrequesting parent of the requesting parent's desire to disestablish paternity and of the requesting parent's whereabouts. The notice will state that the nonrequesting parent may cooperate in this action by filing a statement of the nonrequesting parent's current address or the name and address of the nonrequesting parent's attorney in the court file, or may contact the requesting parent with this information.

100.14(2) *Notification of requesting parent.* Child support services will provide notification to the requesting party that contact was made with the nonrequesting party and that the nonrequesting parent may file a statement in the court file or may contact the requesting parent directly.

441—100.15(598,600B) Continuation of enforcement. Child support services will continue all enforcement actions to collect current and accrued support as ordered until child support services receives a file-stamped copy of the order disestablishing paternity.

441—100.16(598,600B) Satisfaction of accrued support.

100.16(1) *Disestablishment orders entered before May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered before May 21, 1997, child support services will take the following actions concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department and only if:

(1) For actions under Iowa Code section 600B.41A or 232.3A, blood or genetic testing was done and a guardian ad litem was appointed for the child.

(2) For actions under Iowa Code section 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(2) *Disestablishment orders entered on or after May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered on or after May 21, 1997, child support services will take the following actions concerning unpaid support:

a. If the order also contains a provision satisfying unpaid support, child support services will adjust its records to show unpaid support is paid.

b. If the order does not contain a provision satisfying unpaid support, child support services will satisfy only unpaid support assigned to the department. Child support services will notify the party who petitioned the court for disestablishment that this is the only support child support services can satisfy.

(1) Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver notice, child support services is not prevented from satisfying amounts due the department.

(2) Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(3) *Termination of paternity.* If the court entered an order dismissing a disestablishment of paternity action on or before May 21, 1997, this subrule applies. Upon receipt of a file-stamped copy of an order terminating paternity under the requirements of Iowa Code section 600B.41A, child support services will take the following actions concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly terminated, child support services may attempt to reinstate and enforce the prior judgment.

100.16(4) *Previously collected moneys.* Child support services will not return any moneys previously paid on the judgment.

441—100.17(252C) Establishment of an administrative order.

100.17(1) *When order may be established.* The department may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude child support services from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker.

100.17(2) *Support debt.* When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

100.17(3) *Notice to responsible person.* When the department establishes a support debt against a responsible person, a notice of child support debt will be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice will include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice will also inform the responsible person that these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice will include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances will result in the entry of a default judgment for support.

100.17(4) *Negotiation conference.* The responsible person may, within ten calendar days after being served the notice of child support debt, request a negotiation conference with the office of child support services that sent the notice.

100.17(5) *Amount of support obligation.* Child support services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

a. Any deviation from the guidelines will require a written finding by the department.

b. Reserved.

100.17(6) *Court hearing.* Either the responsible person or child support services may request a court hearing regarding the establishment of a support obligation through the administrative process.

a. The request for a hearing by the responsible person must be in writing and sent to the office of child support services that sent the original notice of the support debt by the latest of the following:

(1) Thirty days from the date of service of the first notice of support debt.

(2) Ten days from the date of the negotiation conference.

(3) Thirty days from the date the second notice and finding of financial responsibility is issued.

(4) Ten days from the date of issuance of the conference report if the department does not issue a second notice and finding of financial responsibility after a conference was requested.

b. When a request for a court hearing is received from the responsible person, within the time limits allowed, or is made by child support services, the department will schedule or request that the hearing be scheduled in the district court in the county:

(1) Where the dependent child resides if the child resides in Iowa.

(2) Where the responsible person resides if the child for whom support is sought resides in another state or the sole purpose of the administrative order is to secure a judgment for the time period that public assistance was expended by the state on behalf of the family or child.

100.17(7) *Exception to time limit.* The department may accept and respond to written requests for a court hearing beyond the time limits allowed in this rule.

100.17(8) *Entry of order.* If no request for a hearing is received from the responsible person at the local office of child support services, or made by child support services, the department may prepare an order for support and have it presented ex parte to the court for approval.

a. The attorney for child support services will present the order and other documents supporting the entry of the ex parte order to the court for review and approval. Pursuant to Iowa Code chapter 252C, the court will approve the order unless defects appear in the order or supporting documents.

b. The department will file a copy of the approved order with the clerk of the district court.

c. The department will send a copy of the filed order by regular mail, to the caretaker's last-known address, to the responsible person's last-known address or the caretaker's or the responsible person's attorney pursuant to the provisions of Iowa Code chapter 252C within 14 days after approval and issuance of the order by the court.

100.17(9) *Force and effect.* Once the order has been signed by the judge and filed, it will have all the force and effect of an order or decree entered by the court. Unless otherwise specified, the effective

date of the support obligation will be the twentieth day following the date the order is prepared by child support services.

100.17(10) *Modification by department.* The department may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

441—100.18(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapters 252C and 252F and sections 252A.6A, 598.21, and 600B.41A.

ARC 8556C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to adjustment and modification of support and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 101, "Adjustment and Modification of Support," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 252B and 252H.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 252B and 252H.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter sets process standards, some of which are not found in the Iowa Code, for child support services when reviewing and adjusting child support obligations. This is a new chapter that was previously Divisions IV and V of 441—Chapter 99 (additional divisions, beyond Divisions IV and V, have been restructured into new chapters).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 441—Chapter 101:

TITLE X
SUPPORT RECOVERY

CHAPTER 101
ADJUSTMENT AND MODIFICATION OF SUPPORT

441—101.1(252B,252H) Definitions.

"Additional child" means a child to be added to an existing support order covering another child of the same parents.

"Born of a marriage" means a child was born of a woman who was married at the time of conception, birth, or at any time during the period between conception and birth of the child pursuant to Iowa Code chapter 252A and section 144.13.

"Cost-of-living alteration" means the same as defined in Iowa Code section 252H.2.

"Guidelines" means the most current guidelines and criteria prescribed by the Iowa Supreme Court for determining the amount of child support to be awarded.

"Parent" means a person who is a responsible person or a caretaker, as those terms are defined in rule 441—95.1(252B).

"Recipient of service" means a person receiving foster care services, or a recipient of family investment program assistance or Medicaid benefits whose child support or medical support is assigned, or a person who is not receiving public assistance but who is entitled to child support enforcement services pursuant to Iowa Code section 252B.4.

"Substantial change of circumstances," means:

1. There has been a change of 50 percent or more in the net income of a parent, as determined by comparing the new net income with the net income upon which the current child support obligation was based, and

2. The change is due to financial circumstances that have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months, pursuant to Iowa Code section 252H.18A.

441—101.2(252H) Confidentiality of financial information. Financial information provided to child support services by either parent for the purpose of facilitating the modification or review and adjustment processes may be disclosed to the other parties to the case, or the district court, as follows:

101.2(1) *Financial statements.* The financial statement or affidavit may be disclosed to either party.

101.2(2) *Other documentation.* Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court unless otherwise prohibited by state or federal law.

441—101.3(252H) Payment of fees.

101.3(1) Payment of service of process and other costs associated with the modification or review and adjustment processes is the responsibility of the party requesting the action unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified.

101.3(2) A requesting party who is indigent or receiving public assistance may request deferral of fees and costs. For the purposes of this chapter, "indigent" means that the requesting party's income is 200 percent or less than the poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 as amended to August 1, 2024.

441—101.4(252B,252H) Review of permanent child support obligations. Permanent child support obligations that are ongoing and being enforced by child support services or the child support agency of another state will be reviewed by child support services to determine whether or not to adjust the obligation. Child support services will determine the appropriate obligation amount using the child support guidelines. Iowa must have continuing, exclusive jurisdiction to modify the order under Iowa Code chapter 252K.

101.4(1) *Periodic review.* A permanent child support obligation being enforced by child support services and meeting the conditions in Iowa Code section 252H.12 may be reviewed upon the initiative of child support services if:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The support order does not already contain medical support provisions.

c. A review is otherwise necessary to comply with state or federal law.

101.4(2) *Review by request.* A review will be conducted upon the request of the child support agency of another state or upon the written request of either parent subject to the order submitted on a form prescribed by the department. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

101.4(3) *Review outcome.*

a. Procedures to adjust the support obligation will be initiated only when the financial and other information available to child support services indicates that the:

(1) Present child support obligation varies from the Iowa Supreme Court mandatory child support guidelines by more than 20 percent, and

(2) Variation is due to a change in financial circumstances that has lasted at least three months and can reasonably be expected to last for an additional three months.

b. Procedures to modify a support order may be initiated when the order does not include provisions for medical support.

441—101.5(252B,252H) Notice requirements—review and adjustment. Child support services will provide written notification to each parent affected by a permanent child support obligation being enforced by child support services as follows:

101.5(1) *Notice of right to request review.* Child support services will notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification will be provided on forms prescribed by the department or through another printed or electronic format.

101.5(2) *Notice of review.* One of the following will apply:

a. At least 15 days before the review is conducted, child support services will serve notice of its intent to review the order on each parent affected by the child support obligation. This notice will include a request that the parties complete a financial statement and provide verification of income. The notice will be served in accordance with Iowa Code section 252B.26 or 252H.15.

b. If the conditions of Iowa Code section 252H.14A(1) are met, child support services may conduct a review using information accessible to child support services without:

(1) Issuing a notice under paragraph 101.5(2)*"a,"* or

(2) Requesting additional information from the parent.

101.5(3) *Notice of decision.* After child support services completes the review of the child support obligation in accordance with rule 441—101.4(252B,252H), child support services will issue a notice of decision in accordance with Iowa Code section 252H.14A or 252H.16 stating whether or not an adjustment is appropriate and, if so, child support services' intent to enter an administrative order for adjustment.

101.5(4) *Challenges to outcome of review.* Each parent will be allowed to request a second review challenging the determination of child support services. The procedure for challenging the determination is as follows:

a. The parent challenging the determination must submit the request for a second review in writing to child support services stating the reasons for the request and providing written evidence necessary to support the challenge. The request must be submitted:

(1) Within 10 days from the date of a notice of decision issued pursuant to Iowa Code section 252H.16, or

(2) Within 30 days from service of a notice of decision issued pursuant to Iowa Code section 252H.14A.

b. Child support services will review the written evidence submitted with the request and all financial information available to child support services and make a determination of one of the following:

(1) To enter an administrative order for adjustment of the obligation.

(2) That adjustment of the child support obligation is inappropriate.

c. Child support services will send written notice of the outcome of the second review to each parent affected by the child support obligation at the parent's last-known mailing address.

d. For a review initiated under Iowa Code section 252H.15, if either parent disputes the second decision, the objecting parent may request a court hearing within 15 days from the date the notice of decision is issued or within 10 days of the date the second notice of decision is issued, whichever is later.

e. For a review initiated under Iowa Code section 252H.14A, either parent may request a court hearing within 10 days of the issuance of the second notice of decision.

f. If child support services receives a timely written request or child support services determines that a court hearing is necessary, child support services will certify the matter to the district court. An objecting parent may seek recourse by filing a private petition for modification through the district court.

441—101.6(252B,252H) Financial information—review and adjustment. Child support services will attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be reviewed necessary to conduct the review.

101.6(1) *Financial statements.* Except for a review initiated under Iowa Code section 252H.14A, both parents subject to the order to be reviewed must provide a financial statement and verification of income within ten days of service of the notice of child support services' intent to review the obligation. If a review is initiated under Iowa Code section 252H.14A and the first notice of decision is challenged as described in subrule 101.5(4), both parents will be requested to provide a financial statement and verification of income within ten days of child support services' request.

a. Verification of income will include but not be limited to the following: copies of state and federal income tax returns, W-2 statements, pay stubs, or a signed statement from an employer or other source of income.

b. Child support services may also request that the parent requesting review provide an affidavit regarding the financial circumstances of the nonrequesting parent when child support services is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent must complete the affidavit if the parent possesses sufficient information to do so.

101.6(2) *Independent sources.* Child support services may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed.

a. These resources include but are not limited to the following: the Iowa workforce development department, the Iowa department of revenue, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

b. In the absence of other verification of income and deductions allowed under the mandatory support guidelines, child support services may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent from the gross earned income confirmed by an independent source. A parent may challenge this estimate by providing verification of actual earned income deductions.

101.6(3) *Availability of medical insurance.* Both parents subject to the order to be reviewed must provide documentation regarding the availability of health insurance coverage for the children covered under the order, and the cost of the coverage, within ten days of a written request by child support services. Verification may include but not be limited to: a copy of the health benefit plan including the effective date of the plan, a letter from the employer detailing the availability of health insurance, or any other source that will serve to verify health insurance information and the cost of the coverage.

441—101.7(252B,252H) Review and adjustment of a child support obligation.

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.

101.7(2) *Civil action.* The review and adjustment action that is certified to court for hearing will proceed as an ordinary civil action in equity, and child support services attorney will represent the state of Iowa in those proceedings.

101.7(3) *Private counsel.* After the notice has been issued as described in subrule 101.5(2) or 101.5(3), any party may choose to be represented personally by private counsel. Any party who retains private counsel must notify child support services of this fact in writing.

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.

441—101.9(252B,252H) Denying requests—review and adjustment. A request for review by a parent subject to the order may be denied for the following reasons:

101.9(1) It has been less than two years since the support order was filed with the court, last modified, or last reviewed for the purpose of adjustment.

101.9(2) Child support services or a child support agency of another state is not providing enforcement services for an ongoing support obligation under the order for which the review has been requested.

101.9(3) The request is based entirely on issues such as custody, visitation, or parenting time rights, which are not directly related to child support.

101.9(4) The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

101.9(5) The request is for the review of a temporary support order.

441—101.10(252B,252H) Withdrawing requests — review and adjustment. If the requesting party contacts child support services to withdraw the request, child support services will proceed as follows:

101.10(1) *Consent of both parties.* Child support services will notify the nonrequesting party of the requesting party's desire to withdraw the request.

a. If the nonrequesting party indicates a desire to continue the review, child support services will proceed with the review and adjust the obligation, if appropriate.

b. If the nonrequestor indicates a desire to stop the process or fails to respond within ten days to the notification of the request to withdraw, child support services will notify all parties that the review and adjustment process has been terminated.

101.10(2) *Effect of withdrawal.* If a request is successfully withdrawn pursuant to subrule 101.10(1), a later request by either party will be subject to the limitations of subrule 101.4(2).

441—101.11(252H) Effective date of review and adjustment. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation amount will be effective on the first date that the periodic payment is due under the order being modified after child support services files the adjustment order with the court.

441—101.12(252H) Availability of service—administrative modification. Child support services will provide administrative modification services for a support order originally entered or a foreign order registered in the state of Iowa. The order must be one that:

101.12(1) Involves at least one child born of a marriage or one child for whom paternity has been legally established.

101.12(2) Is being enforced by child support services in accordance with Iowa Code chapter 252B.

101.12(3) Is subject to the jurisdiction of this state for the purposes of modification.

101.12(4) Is not subject to or is not appropriate for review and adjustment.

101.12(5) Provides for support of at least one child under the age of 18 or a child between the ages of 18 and 19 years who is engaged full-time in completing high school graduation or equivalency requirements in a manner that is reasonably expected to result in completion of the requirements prior to the person's reaching 19 years of age.

101.12(6) Has an obligation ending more than 12 months in the future.

101.12(7) Involves parents for whom the location of both parents is known.

441—101.13(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—101.12(252H) may be modified at the initiative of child support services, or upon written request of either parent subject to the order submitted on a form prescribed by the department. Any action will be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order will not be modified. The procedures used by child support services to determine if a modification is appropriate are as follows:

101.13(1) *Substantial change of circumstances.* Procedures to modify the support obligation may be initiated outside the minimum time frame described in subrule 101.4(2) if a request is received from either parent and if the parent has submitted verified documentation of a substantial change in circumstances that indicates both of the following:

a. A change of at least 50 percent in the net income of a parent as defined by guidelines. The new net income will be compared to the net income upon which the current child support obligation was based.

b. The change is due to financial circumstances that have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

Child support services will review the request and documentation and, if appropriate, issue a notice of intent to modify as described in subrule 101.14(1).

101.13(2) *Adding provisions for additional children.* Procedures to modify the support obligation may be initiated if:

a. A parent requests, in writing, or child support services determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the guidelines pursuant to Iowa Code sections 598.21B and 252B.7A; and

b. Paternity has been legally established.

When adding a child to an order through administrative modification, medical support provisions will apply to the additional child.

101.13(3) *Reserved, zero-dollar-amount, or medical-provisions-only orders.* Procedures to modify the support obligation may be initiated if:

a. A parent requests a modification in writing or child support services determines that it is appropriate to include a support amount based on the guidelines; and

b. The original order:

(1) Reserved establishment of an ongoing, dollar-amount support obligation giving a specific reason other than lack of personal jurisdiction over the obligor, or

(2) Set the amount at zero, or

(3) Was for medical provisions only.

101.13(4) *Corrections.* Procedures to modify the support obligation may be initiated if:

a. An error or omission pertaining to child support or medical provisions was made during preparation or filing of a support order; and

b. A necessary party requests a modification or child support services determines that a modification to correct an error or omission is appropriate.

101.13(5) *Noncompliance by minor obligors.* The unit may initiate procedures to modify a support order if a parent requests modification in writing or the unit determines that it is appropriate when:

a. An obligor who is under 18 years of age fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section 598.21G; or

b. An obligor who is 19 years of age or younger fails to provide proof of compliance with education requirements described in Iowa Code section 598.21B(2)*"e"*; or

c. The obligor no longer meets the age requirements as defined in Iowa Code section 598.21B(2) *"e"* or 598.21G.

101.13(6) *Cost-of-living alteration.* A support order may be modified to provide a cost-of-living alteration if all the following criteria are met:

a. Those criteria established in Iowa Code section 252H.23.

b. At least two years have passed since the order was filed with the court or last reviewed, modified, or altered.

c. The current support order addresses medical support for the children.

d. A copy of each affected order is provided, if child support services does not already have copies in its files.

441—101.14(252H) Notice requirements—administrative modification. Child support services will provide written notification to parents affected by a permanent child support obligation being enforced by child support services as follows:

101.14(1) *Notice of intent to modify.* When a request for administrative modification is received or child support services initiates an administrative modification, child support services will provide written notice to each parent of its intent to modify.

a. The notice will include the legal basis and purpose for the action; a request for income or other information necessary for the application of guidelines (if applicable); an explanation of the legal rights and responsibilities of the affected parties, including time frames; and procedures for contesting the action.

b. Child support services will take the following actions to notify parents:

(1) If the modification is based on subrules 101.13(1) through 101.13(5), notice will be provided to each parent. The notice will be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26 or 252H.19.

(2) If the modification is based on provision of a cost-of-living alteration as established at subrule 101.13(6) and the required documentation is included, child support services will notify each parent of the amount of the cost-of-living alteration by regular mail to the last-known address of each parent or, if applicable, each parent's attorney. The notice will include:

1. The method of determining the amount of the alteration pursuant to Iowa Code section 252H.21.

2. The procedure for contesting a cost-of-living alteration by making a request for review of a support order as provided in Iowa Code section 252H.24.

3. A statement that either parent may waive the 30-day notice waiting period. If both parents waive the notice waiting period, child support services may prepare an administrative order altering the support obligation.

101.14(2) *Notice of decision to modify.* Child support services will issue a notice of its decision to modify the support order to each parent affected by the support obligation at each parent's (or attorney's) last-known address. The notice will contain information about whether child support services will continue or terminate the action and the procedures and time frames for contesting the action by requesting a court hearing pursuant to subrule 101.16(2).

441—101.15(252H) Financial information—administrative modification. Child support services may attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be modified that is necessary to conduct an analysis and determine support. Child support services does not require financial information if the request is for a cost-of-living alteration.

101.15(1) *Financial statements.* Parents subject to the order must provide a financial statement and verification of income within ten days of a written request by child support services.

a. If the modification action is based on a substantial change of circumstances:

(1) The requesting party must provide a form prescribed by the department, and documentation that proves the amount of change in net income and the date the change took place, such as:

1. Copies of state and federal income tax returns, W-2 statements, or pay stubs, or

2. A signed statement from an employer or other source of income.

(2) Child support services will review the request and documentation. If appropriate, child support services will issue to each parent a notice of intent to modify the order as stated in subrule 101.14(1) and a financial statement. Each parent must complete and sign the financial statement and return it to child support services with verification of income and deductions as described in subrule 99.1(3).

b. Child support services may require a completed and signed financial statement and verification of income from each parent as described in subrule 99.1(3) if the modification is based on:

(1) Addition of a child;

(2) Changing a reserved or zero-dollar-amount obligation;

(3) Changing a medical-provisions-only obligation;

(4) Making a correction (if financial information is needed); or

(5) Noncompliance by a minor obligor as defined in Iowa Code section 598.21B(2)*"e"* or 598.21G.

c. Child support services may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when child support services is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent must complete the affidavit if the parent possesses sufficient information to do so.

d. Child support services may also use occupational wage rate information or the median income for parents on child support services' caseload to determine the gross income of a parent when a parent has failed to return a completed financial statement when requested and complete and accurate information is not readily available from other sources.

e. Self-employment income will be determined as described in subrule 99.1(5).

101.15(2) *Independent sources.* Child support services may use other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be modified as described in rule 441—99.1(234,252B,252H).

101.15(3) *Guidelines calculations.* Child support services will determine:

a. The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B,252H) through 441—99.5(234,252B), and

b. Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.2(252E) through 441—98.5(252E) and 441—75.14(249A).

441—101.16(252H) Challenges to the proposed modification action. For modification actions based on subrules 101.13(1) through 101.13(5), each parent will have the right to request a conference to contest the proposed modification. Either parent, or child support services, may also request a court hearing. For requests made based on subrule 101.13(6), either parent may contest the cost-of-living alteration by making a request for a review and adjustment of the support order.

101.16(1) *Conference.* Either parent may contest the proposed modification based on subrules 101.13(1) through 101.13(5) by means of a conference with the office of child support services that issued the notice of intent to modify.

a. Only one conference will be held per parent.

b. The request must be made within ten days of the date of service of the notice of intent to modify.

c. The office that issued the notice of intent to modify will schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference.

d. Reasons for contesting the modification include but are not limited to mistake of fact regarding the identity of one of the parties or the amount or terms of the modification.

e. Child support services may conduct the conference in person or by telephone.

f. If the party who requested the conference fails to attend the conference, only one alternative time will be scheduled by child support services.

g. The results of a conference will in no way affect the right of either party to request a court hearing pursuant to subrule 101.16(2).

h. Upon completion of the conference, child support services will issue a notice of decision to modify as described in subrule 101.14(2).

101.16(2) *Court hearing.*

a. Either parent, or child support services, may contest the proposed modification, based on subrules 101.13(1) through 101.13(5), by requesting a court hearing within the latest of any of the following time periods:

(1) Twenty days from the date of successful service of the notice of intent to modify,

(2) Ten days from the date scheduled for a conference, or

(3) Ten days from the date of issuance of a notice of decision to modify.

b. If child support services receives a timely written request, child support services will certify the matter to the district court as described in Iowa Code section 252H.8.

c. If a timely request is not received, if waiting periods have been waived, or if the notice periods have expired, child support services will prepare an administrative order as provided in Iowa Code section 252H.9.

101.16(3) *Contesting a proposed cost-of-living alteration.* Either parent may contest a cost-of-living alteration within 30 days of the date of the notice of intent to modify by making a request for a review of the support order as provided in Iowa Code section 252H.13.

a. If child support services receives a timely written request for review, child support services will terminate the cost-of-living alteration process and proceed with the review and adjustment process.

b. If a timely request is not made, or the notice waiting period has been waived by both parties, or the notice period has expired, child support services will prepare an administrative order as provided in Iowa Code section 252H.24.

441—101.17(252H) Misrepresentation of fact—administrative modification.

101.17(1) Child support services will not modify the support order based on a substantial change of circumstances if a change in income is due to any material misrepresentation of fact concerning any financial information submitted to child support services.

101.17(2) Child support services may request verification that all facts concerning financial information are true. Verification may include but is not limited to a statement from the employer, a doctor, or other person with knowledge of the situation.

441—101.18(252H) Effective date of modification. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation will be effective on the first date that the periodic payment is due under the order being modified after child support services files the modification order with the court. If the modification is based on a reserved, zero-dollar-amount, or medical-provisions-only obligation, the new obligation will be effective 20 days after generation of the administrative modification order.

441—101.19(252H) Denying requests—administrative modification. A request for modification by a parent subject to the order may be denied if the criteria in rule 441—101.12(252H) are not met or the following conditions exist:

101.19(1) *Nonsupport issues.* The request is based entirely on issues such as custody, visitation, or parenting time rights.

101.19(2) *Request only for delinquent support.* The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

101.19(3) *Temporary order.* The request is for the modification of a temporary support order.

101.19(4) *Two-year time frame.* The request is for a cost-of-living alteration and it has been less than two years since the order was filed with the court or last reviewed, modified, or altered.

101.19(5) *Change of circumstances.* The request is based on a substantial change in circumstances and:

a. The requestor's net income has not changed by at least 50 percent, as required in paragraph 101.13(1)*"a,"* or

b. The requestor has not provided adequate documentation of the change in income, as required in subrule 101.15(1), or

c. The change in income has not yet lasted for three months, as required in paragraph 101.13(1) *"b,"* or

d. The change in income is not expected to last another three months, as required in paragraph 101.13(1)*"b,"* or

e. The change in income is due to material misrepresentation of fact, as explained in rule 441—101.17(252H).

441—101.20(252H) Withdrawing requests—administrative modification. If the requesting party contacts child support services to withdraw the request, child support services will notify the nonrequesting party of the requesting party's desire to withdraw the modification request. If the nonrequesting party indicates, in writing, a desire to continue with the modification process, child support services will proceed, and if appropriate, modify the support order. If there is no response from the nonrequesting party or if the nonrequesting party also wants the process to end, child support services will end the modification process. If child support services initiated the modification action, child support services may terminate the process if, after notifying both parents, neither parent indicates a desire to continue with the modification.

441—101.21(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 252H and sections 252B.5, 252B.7, and 598.21C(2).

ARC 8558C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to suspension and reinstatement of support and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 102, "Suspension and Reinstatement of Support," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 252B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 252B.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter sets process standards, some of which are not found in the Iowa Code, for Child Support Services when suspending and reinstating child support. This chapter was previously Division VI of 441—Chapter 99 (additional divisions, beyond Division VI, have been restructured into new chapters).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. Public hearings were held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 441—Chapter 102:

CHAPTER 102
SUSPENSION AND REINSTATEMENT OF SUPPORT

441—102.1(252B) Definitions.

"Caretaker" means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

"Child" means the same as defined in Iowa Code section 252E.1.

"Obligee" means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

"Obligor" means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

"Public assistance" means the same as defined in Iowa Code section 252H.2.

"Spousal support" means either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

"Step change" means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

"Support" means the same as defined in Iowa Code section 252D.16 and will include support for a child.

"Support for a child" means either a set amount of monetary support (child support), 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.

"Support order" means the same as a "court order" as defined in Iowa Code section 252C.1.

441—102.2(252B) Availability of service—suspension by mutual consent. Child support services will provide suspension by mutual consent only with respect to support orders entered or registered in this state for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.2(1) Suspension by mutual consent will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

102.2(2) Suspension by mutual consent will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.3(252B) Basis for suspension of support by mutual consent.

102.3(1) *Reconciliation.* Child support services will assist an obligor and obligee in suspending support for a child and, if contained in a child support order, spousal support, when the obligor and obligee are reconciled and are residing together, with at least one child entitled to support under the order, in the same household.

102.3(2) *Change in residency.* Child support services will assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, child support services will not assist in suspending any spousal support provisions of a support order on this basis. Child support services will also assist an obligor and obligee in suspending support for a child residing with a caretaker who has not requested services, if the child is not receiving public assistance.

102.3(3) *Affected children.* Child support services will assist an obligor and obligee in suspending by mutual consent all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.3(4) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

102.3(5) *Duration of conditions.* The basis for suspension of support as provided in subrule 102.3(2) and subrule 102.3(3) must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

441—102.4(252B) Request for assistance to suspend by mutual consent.

102.4(1) *Submitting a request.* The obligor and obligee subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

a. A request for suspension must be submitted to child support services using a request and affidavit form prescribed by the department.

b. Child support services will provide the request and affidavit form prescribed by the department to the obligor and obligee upon request.

c. Both forms must be signed by both the obligor and the obligee affected by the order to be suspended. In the event that current support payments are assigned to an individual or entity other than the obligee named in the original order, but may revert to the original obligee at a future date without court action, both the original obligee and the current assignee must sign both forms.

d. The affidavit form prescribed by the department must be notarized.

e. The request must contain sufficient information to allow child support services to identify the court order and parties involved, and a statement that the obligor and obligee expect the basis for suspension to continue for not less than six months.

f. If the obligor and obligee are requesting suspension of more than one order at the same time, the obligor and obligee will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor and obligee will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

102.4(2) *Denying a request.* Child support services will issue a written notice to the obligor and obligee indicating that a properly completed request is denied.

a. This notice will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice will be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice will be issued to the obligor and obligee at their respective last-known addresses.

c. The notice denying a request will indicate the reason for denial.

d. A request for suspension will be denied when the conditions specified in Iowa Code section 252B.20 or rule 441—102.2(252B) or 441—102.3(252B) are not met.

441—102.5(252B) Order suspending support by mutual consent. To approve a request to suspend support, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

102.5(1) When the basis for suspension is reconciliation, the suspension will apply to any ongoing support provisions of the order, including medical support, with respect to any child residing with the parents and with respect to any spouse or former spouse entitled to support under the order to be suspended.

102.5(2) When the basis for suspension is a change in residency of one or more of the children entitled to support, the suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor. Any spousal support also ordered in the same support order will remain unaffected by this action.

102.5(3) A copy of the filed order will be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

441—102.6(252B) Suspension of enforcement of current support—suspension by mutual consent. Child support services will suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.7(252B) Availability of service—suspension by payor's request. Child support services will provide suspension by payor's request only with respect to support orders entered pursuant to Iowa Code chapter 252A, 252C or 252F for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.7(1) Suspension by payor's request will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order pursuant to Iowa Code chapter 252K.

102.7(2) Suspension by payor's request will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.8(252B) Basis for suspension of support by payor's request.

102.8(1) *Child residing with obligor or caretaker.* Child support services will assist an obligor in suspending support for a child residing with the obligor or with a caretaker who has not requested unit services, if the child has been residing with the obligor or caretaker for more than 60 consecutive days.

102.8(2) *Orders eligible for suspension.*

a. Child support services will assist an obligor in suspending support for a child only when there is no order in effect regarding legal custody, physical care, visitation, or parenting time for the child.

b. If an order exists that contains language regarding legal custody, physical care, visitation, or parenting time for the child, child support services will deny the suspension request.

102.8(3) *Children on public assistance.* The children for whom ongoing support is being suspended must not be receiving public assistance pursuant to Iowa Code chapter 239B or 249A or a comparable law of another state or foreign country, or if the children are receiving public assistance, the obligor must be considered to be a member of the same household as the children for the purposes of public assistance eligibility.

102.8(4) *Duration of conditions.* The basis for suspension of support must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

102.8(5) *Affected children.* Child support services will assist an obligor in suspending by payor's request all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.8(6) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

441—102.9(252B) Request for assistance to suspend by payor's request. The obligor subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

102.9(1) *Submitting a request.*

a. A request for suspension must be submitted to child support services using a form prescribed by the department.

b. Child support services will provide the request form prescribed by the department to the obligor upon request.

c. The request form must be signed by the obligor affected by the order to be suspended.

d. The request must contain sufficient information to allow child support services to identify the court order and parties involved and must attest that the children have lived in the obligor's household or the caretaker's household for more than 60 consecutive days and are expected to live there for at least six months.

102.9(2) *Submitting an affidavit.* After receiving a valid request for suspension, child support services will provide the requestor with an affidavit form prescribed by the department.

a. The obligor must submit the affidavit for suspension to child support services. If the request for suspension is made pursuant to Iowa Code section 252B.20A(17), the caretaker must also submit an affidavit form prescribed by the department.

b. The affidavit prescribed by the department must be signed, attesting to the existence of the conditions under subrules 102.8(1) through 102.8(4). The affidavit must be notarized.

c. If the obligor is requesting suspension of more than one order at the same time, the obligor will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

441—102.10(252B) Determining eligibility for suspension by payor's request. Upon receipt of the request for suspension and the properly executed and notarized affidavit, child support services will review the request and the affidavit to determine that the criteria have been met.

102.10(1) *If the criteria are not met.* If the criteria have not been met, child support services will issue a written notice to the obligor indicating that the request is denied.

a. The notice will be sent by first-class regular mail to the last-known address of the obligor or, if applicable, to the last-known address of the obligor's attorney.

b. The notice will indicate the reason for denial and notify the obligor of the right to proceed through private counsel.

102.10(2) *If the criteria are met.* If the criteria are met, child support services will proceed as follows:

a. Child support services will serve forms prescribed by the department and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee will include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

(2) An explanation of the procedure for suspension and reinstatement of support in this chapter.

(3) An explanation of the rights and responsibilities of the obligee to respond to the action.

(4) A statement that, within 20 days of service, the obligee must submit a signed and notarized response to child support services objecting to at least one of the assertions in subrules 102.8(1) through 102.8(4). The statement will inform the obligee that if, within 20 days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding Rules of Civil Procedure 1.972(2) and 1.972(3), child support services will prepare and submit an order.

b. No sooner than 30 days after service on the obligee, child support services will do one of the following:

(1) If the obligee submits a signed and notarized objection to at least one of the assertions in subrules 102.8(1) through 102.8(4), deny the request and notify the parties in writing that the request is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel.

(2) If the obligee cannot be served, child support services will issue a written notice to the obligor indicating the request is denied, following the procedure described in subrule 102.10(2).

(3) If the obligee does not timely submit a signed and notarized objection to child support services, prepare an order following the procedure described in rule 441—102.11(252B).

441—102.11(252B) Order suspending support by payor's request. After approving a request to suspend support and properly serving the obligee, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20A.

102.11(1) The suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor or caretaker.

102.11(2) A copy of the filed order will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

441—102.12(252B) Suspension of enforcement of current support—suspension by payor's request. Child support services will suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.13(252B) Request for reinstatement. Child support services may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code sections 252B.20 and 252B.20A.

102.13(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to child support services. The request must indicate that reinstatement is being requested and the reason for reinstatement and must contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

102.13(2) Child support services may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

102.13(3) Child support services will issue a written notice approving or denying the request to any obligor or obligee requesting reinstatement. This notice will be sent by first-class regular mail to the last-known address of the requesting party and will indicate any reason for denial.

102.13(4) A properly completed request for reinstatement will be denied when any of the following conditions exist:

a. The request is made by someone other than the obligor, the obligee, or the obligor's or obligee's attorney.

b. Child support services is no longer providing enforcement services for the suspended order.

c. The request is received more than six months after the date of the filing of the order suspending support.

d. The request is for partial reinstatement of the suspended support order for some but not all of the children, and the order does not contain a step change.

e. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

441—102.14(252B) Reinstatement. Child support services will follow the procedures in Iowa Code sections 252B.20 and 252B.20A in seeking to have the court reinstate a support order.

102.14(1) Child support services will request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 102.5(1) and if child support services receives a properly completed request from the obligor or the obligee.

102.14(2) Child support services will seek to have the previously suspended support for a child reinstated when the conditions in paragraph 102.14(2)*"a"* or *"b"* are met. This provision will not

prohibit any party, including child support services, from taking other action to establish support as provided for by law.

a. The basis for suspension no longer applies to any of the children for whom support was suspended; or

b. The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

441—102.15(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, child support services will also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

441—102.16(252B) Temporary suspension becomes final. The temporary suspension of a support order under this chapter will become final if not reinstated in accordance with Iowa Code sections 252B.20 and 252B.20A.

441—102.17(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 252B.

ARC 8547C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Proposing rulemaking related to description of organization and providing an opportunity for public comment

The Interior Design Examining Board hereby proposes to rescind Chapter 1, "Description of Organization," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Proposed Chapter 1 provides basic information on the structure and function of the Board, which benefits the public and registrants by informing them about the organization and administration of the Board.

The proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 193G—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
DESCRIPTION OF ORGANIZATION

193G—1.1(544C,17A) Definitions. As used in these rules, the following definitions of words and terms apply:

"Board" means the same as in Iowa Code section 544C.1(1).

"CIDQ" means the council for interior design qualification.

"Department" means the same as in Iowa Code section 544C.1(4).

"Registered interior design" means the same as in Iowa Code section 544C.1(9).

"Registered interior designer" means the same as in Iowa Code section 544C.1(10).

193G—1.2(544C) Description.

1.2(1) The purpose of the board is to administer and enforce the provisions of Iowa Code chapter 544C. The board has promulgated these rules to clarify the board's intent and procedures.

1.2(2) The primary mission of the board is to protect the public interest. All board rules are construed as fostering the guiding policies and principles described in Iowa Code chapter 544C.

193G—1.3(544C,17A) Organization and duties. The board elects annually from its members a chairperson and a vice-chairperson. A quorum of the board is four members, and all final motions and actions must receive a majority vote. The board enforces the provisions of Iowa Code chapter 544C and maintains a roster of all registered interior designers in the state.

1.3(1) *Chairperson.* The chairperson, when present, presides at the meetings, appoints committees, and exercises all duties and powers of the chairperson.

1.3(2) *Vice chairperson.* The vice chairperson, in the absence or incapacity of the chairperson, exercises the duties and powers of the chairperson.

193G—1.4(544C,17A) Meetings. Calls for meetings are issued in accordance with Iowa Code section 21.4. The first meeting scheduled after April 30 is the annual meeting. The chairperson and vice chairperson are elected at the annual meeting. The chairperson and vice chairperson serve one-year terms. The newly elected officers assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

193G—1.5(544C) Other meetings. In addition to the annual meeting and any subsequent meetings, the time and place of which may be fixed by vote of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

193G—1.6(544C) Administrative committees. The board chairperson may appoint administrative committees of members of the board for the purpose of making recommendations on matters specified by the board.

193G—1.7(544C,17A) Waivers. Persons who wish to seek waivers from board rules should consult the uniform rules for the department at 481—Chapter 6.

These rules are intended to implement Iowa Code chapters 17A, 21, 22, 252J, 261, 272C and 544C.

ARC 8549C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

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

The Interior Design Examining Board hereby proposes to rescind Chapter 2, "Registration," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Proposed Chapter 2 establishes the minimum standards for interior design registration. The public, registrants, and applicants benefit from the chapter because it articulates the processes by which individuals apply for registration as directed in statute. This includes the processes for initial registration, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual who holds a registration has minimum competency. Requirements include the application process, minimum educational and training qualifications, and examinations. The proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa

	Via Zoom: us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 193G—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
REGISTRATION

193G—2.1(544C) Certificate of registration. All applicants for registration will complete a board-approved application and satisfy the interior design education, practical training, examination, and fee requirements established by this rule.

2.1(1) *Education and practical training.* An applicant for registration shall meet the education and training requirements set forth in Iowa Code section 544C.5.

2.1(2) *Examination.* An applicant for registration will verify successful completion of the National Council for Interior Design Qualification examination or its equivalent.

2.1(3) *Reciprocity.* The board may also grant registration by reciprocity as provided in Iowa Code section 544C.6.

2.1(4) *Military service and veteran reciprocity.* The board may grant registration for military service applicants, spouses, and veterans as provided for in 481—Chapter 7.

2.1(5) *Registration by verification.* The board may grant registration via verification as provided for in 193—Chapter 14.

193G—2.2(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Certificates issued to registrants with last names beginning with A through K expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning with L through Z expire on June 30 of odd-numbered years. However, a registration issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a

license issued on May 17, 2020, would not expire until June 30, 2022. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—2.3(544C,17A).

2.2(1) It is the policy of the board to send to each registrant a notice of the pending expiration date. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

2.2(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education provisions required as a condition for registration. If the basis for denial is a pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.2(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under rule 193G—3.3(17A,544C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between $50 and $250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours. The consent order may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.2(4) A registrant who continues to use the title of registered interior designer in Iowa after the registration has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.2(5) Registrants shall notify the board within 30 days of any change of address or business.

193G—2.3(544A,17A,272C) Grounds for denial of registration renewal. Failure of a registrant to complete the continuing education requirements as set forth in 193—Chapter 3, failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption shall be grounds for the board to deny renewal of the registration.

193G—2.4(544A,17A) Reinstatement of certificates of registration. An individual may reinstate a lapsed certificate of registration to active registration by doing the following:

1. Paying the current renewal fee;
2. Paying the reinstatement fee of $100;
3. Providing a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonregistration, including a list of all projects with which the applicant had involvement and explaining the service provided by the applicant; and
4. Submitting documented evidence of completion of 10 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 5 continuing education hours for each year or portion of a year of expired registration up to a maximum of 20 continuing education hours. All continuing education hours are to be completed in health, safety, and welfare subjects; be acquired in structured educational activities; and be in compliance with requirements in 193G—Chapter 3. The continuing education hours used for reinstatement may not be

used again at the next renewal and may not have been earned more than four years prior to the date of the application to reinstate.

193G—2.5(544A) Applications.

2.5(1) The interior designer is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an interior designer's firm submits an application for renewal on behalf of the interior designer and that information is incorrect, the interior designer will be held responsible for the information and may be subject to disciplinary action.

2.5(2) Persons applying for initial, renewal, or reciprocal registration will submit an application on a form provided by the board and pay a registration fee of $275. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant's renewal date pays half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration 12 months or more from the applicant's renewal date pays the full registration fee.

2.5(3) Fee schedule.

Type of fee	Amount
Registration fee	$275
Renewal	$275
Reinstatement of lapsed registration	$100
License predetermination fee	$25
Dishonored check, draft, order or other payment failure	$30

All fees are nonrefundable.

These rules are intended to implement Iowa Code chapter 544C.

ARC 8550C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Interior Design Examining Board hereby proposes to rescind Chapter 3, "Continuing Education," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Proposed Chapter 3 sets forth continuing education requirements for registered interior designers to ensure continuing competency. The chapter includes definitions related to continuing education, the number of hours of continuing education that registrants are required to obtain, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that registered interior designers maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 193G—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
CONTINUING EDUCATION

193G—3.1(17A,272C,544C) Definitions. As used in these rules, the following definitions apply:

"Contact hour" means one 60-minute clock hour of educational activity of which at least 50 minutes are devoted to instructional content. Where other units of credit are stated for an educational experience (e.g., continuing education units (CEUs)), they will be credited in terms of actual contact hours.

"Distance education" means any education process based on the geographical separation of student and instructor.

"Health, safety and welfare subjects" or *"HSW subjects"* means subjects that relate to the planning and designing of spaces and elements to minimize the risk of injury to persons or property. Such subjects include compliance with applicable building and safety codes, the planning and designing of spaces and elements that optimize over time the physically and mentally healthful use of those spaces and elements, and the planning and designing of spaces and elements that are durable, maintainable, cost-effective, environmentally conscientious and conservative of resources; that function properly in all relevant respects; that encourage access, functional independence and use by all relevant populations; that encourage user satisfaction, including aesthetic appeal; that promote a sense of user confidence and peace of mind; that integrate effectively with the surrounding environment; and that, in other similar ways, enhance the health, safety and well-being of the public.

"Structured activity" means a method of interior design-related learning led by a qualified individual and conducted or sponsored by a professional organization, technical organization, industry source or accredited college or university taught in person or through distance education.

193G—3.2(17A,272C,544C) Continuing education requirements.

3.2(1) Hours required. Completion of a minimum of ten contact hours in acceptable health, safety and welfare subjects satisfies the continuing education necessary for biennial registration renewal. All hours shall be in structured activity programs and must be acquired during the renewal period. A registrant may carry over up to five contact hours of continuing education credit obtained in excess of the requirements for a renewal period to the following renewal period.

3.2(2) Continuing education hours may be acquired in any state, provided that the registrant can demonstrate that the program meets the definition of structured activity as defined in this chapter.

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration is not required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for 12 months or more, but less than 24 months from the date of initial registration, will report five contact hours of HSW subjects in a structured activity, earned in the preceding 12 months, at the first registration renewal.

3.2(4) Sources of continuing education. Credit may not be claimed for any activity required as part of a registered interior designer's routine professional responsibilities. Structured activities include the following:

a. Completion of any program or course sponsored by a professional or technical organization or industry source.

b. Instruction of a course, seminar, lecture, presentation, workshop, webinar or similar formal educational program. Credit is allowed at a maximum of three preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.

c. Research that is formally presented to the profession or public. Credit is allowed at a maximum of four contact hours per reporting period and shall be valid for the initial presentation only.

d. Completion of college or university credit courses dealing with interior-design-related subjects. Each semester hour equals 15 contact hours. A quarter hour equals ten contact hours.

3.2(5) Approved continuing education. The board does not preapprove continuing education activities or courses; however, acceptable HSW subjects that enhance the health, safety, and well-being of the public include the following topics:

a. Life safety, ADA, and other building and safety codes, standards and administrative regulations governing the practice of interior design.

b. Safety and security.

c. Physical and mental health issues.

d. Topics that relate to human physiology, perception, anthropometrics, ergonomics, psychology, sociology, ecology and cultural factors.

e. Energy efficiency.

f. Environmental issues.

g. Accessibility and universal design.

h. Materials and methods.

i. Building systems.

j. Statutes and rules relating to interior design regulation.

k. Professional ethics.

l. Legal aspects of professional practice.

m. Construction documents and services.

n. Project administration.

193G—3.3(17A,272C,544C) Controls and reporting.

3.3(1) An applicant for registration renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the registrant has participated.

a. When an applicant is requested to provide a listing of the continuing education completed for structured activities, the information will include the following:

(1) The school, firm or organization conducting the course.

(2) The location of the course.

(3) The title of the course or a description of the course content.

(4) The name of the principal instructor.

(5) The dates attended.

(6) The hours claimed.

b. Reserved.

3.3(2) The board may verify information submitted by registrants. If an application for renewal is not approved, the applicant will be notified and may be granted a period of time by the board in which to correct the deficiencies noted. Any discrepancy between the number of CEUs reported and the number of CEUs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEUs, or the registrant has failed to complete the required CEUs, the interior designer has 60 days from notification by the board to either provide further evidence of having completed the CEUs disallowed or remedy the discrepancy by completing the required number of CEUs (provided that such CEUs shall not again be used for the next renewal). An extension of time may be granted on an individual basis if requested by the registrant within 30 days of notification by the board. If the registrant fails to comply with the requirements of this subrule, the registrant may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the interior designer

willfully disregarded these requirements or falsified documentation of required CEUs, the interior designer may be subject to disciplinary action.

3.3(3) The registrant is responsible for maintaining verification of claimed credit for a minimum of five years subsequent to submission of the report to the board office. Acceptable verification may be presented with a course completion certificate or a college transcript.

193G—3.4(17A,544C) Exemptions.

3.4(1) As provided in Iowa Code section 272C.2(4), a registered interior designer is deemed to have complied with the continuing education requirements set forth in this chapter if during the continuing education compliance period the registrant:

a. Has served honorably on active duty in the military service; or

b. Is a resident of another state or district having a continuing education requirement for registered interior design and has complied with all requirements of that state or district for practice therein; or

c. Is a government employee working as a registered interior designer outside the United States.

3.4(2) The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See 193—Chapter 5.

These rules are intended to implement Iowa Code chapter 544C.

ARC 8554C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

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

The Interior Design Examining Board hereby proposes to rescind Chapter 5, "Disciplinary Authority and Grounds for Discipline," and to adopt a new Chapter 5, "Grounds for Discipline, Disciplinary Investigations, and Disciplinary Proceedings," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The purpose of proposed Chapter 5 is to provide Iowans, registrants, and their employers with information about the disciplinary process and possible actions against registered interior designers. The public knows that the Board can impose discipline for violations of the Board's rules. The public has the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the registrant, ensuring that the public is protected. The proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 193G—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
GROUNDS FOR DISCIPLINE, DISCIPLINARY INVESTIGATIONS,
AND DISCIPLINARY PROCEEDINGS

193G—5.1(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.
2. A violation of Iowa Code section 272C.9(2) or 272C.9(3).
3. Failure to comply with an order of the board imposing discipline.
4. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.
5. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's last address on file at the board office.
6. A violation of Iowa Code section 544C.9 or 272C.10.

193G—5.2(17A,272C,544C) Initiation of disciplinary investigations. The board may initiate a registrant disciplinary investigation upon the board's receipt of information suggesting that a registrant may have violated a law or rule enforced by the board which violation, if true, would constitute grounds for registrant discipline. The board may also review the publicly available work product of a registrant on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193G—5.3(17A,272C,544C) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193G—5.4(272C,544C) Complaints. Written complaints may be submitted to the board office by mail, email, website portal, or personal delivery.

5.4(1) *Contents of a written complaint.* Written complaints may be submitted on forms provided by the board that are available from the board's website. Written complaints should include as much of the following information as possible:

a. The full name, address and telephone number of the complainant (person filing the complaint).

b. The full name, address and telephone number of the respondent (registrant against whom the complaint is filed).

c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions that the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.

d. If known, citations to the laws or rules allegedly violated by the respondent.

e. Evidentiary supporting documentation.

f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

5.4(2) *Immunity.* As provided by Iowa Code section 272C.8, a person will not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor will an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

5.4(3) *Role of complainant.* The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding that may be initiated by the board based in whole or in part on information provided by the complainant.

5.4(4) *Role of the board.* The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate registrant discipline to be imposed, if any.

5.4(5) *Initial complaint screening.* All written complaints received by the board are initially screened to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a registrant. Complaints that are clearly outside the board's jurisdiction, that clearly do not allege facts upon which disciplinary action would be based, or that are frivolous are referred to the board for closure at the next scheduled board meeting. All other complaints are referred to the board's disciplinary committee for committee review as described in rule 193G—5.6(17A,272C,544C).

193G—5.5(272C,544C) Case numbers. Whether based on a written complaint received by the board or a complaint initiated by the board, all complaint files are tracked by a case numbering system. The board administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate recordkeeping and a prompt response.

193G—5.6(17A,272C,544C) Investigation procedures.

5.6(1) *Disciplinary committee.* The board chairperson may annually appoint, as needed, two to three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board administrator, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee may not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

5.6(2) *Committee screening of complaints.* Upon the referral of a complaint from the board administrator or from the full board, the committee determines whether the complaint presents facts that, if true, suggest that a registrant may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts that suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee will refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

5.6(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer-review committee, provide the registrant an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193G—6.9(17A,272C,544C) or request that board staff conduct further investigation. Upon completion of an investigation, the investigator, expert consultant and peer-review committee or board staff will present a report to the committee. The committee will review the report and determine what further action is necessary. The committee may do any of the following:

a. Request further investigation.

b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.

c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated but that disciplinary action is unwarranted on other grounds and refer the case to the full board with the recommendation of closure. The committee may also recommend that the registrant be informally cautioned or educated about matters that could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

5.6(4) *Subpoena authority.* Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigatory subpoenas are set forth in rule 481—503.5(17A,272C).

193G—5.7(17A,272C,544C) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected registrant, the committee may grant the registrant an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

5.7(1) An informal discussion is intended to provide a registrant an opportunity to share the registrant's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A registrant is not required to attend an informal discussion. Because disciplinary investigations are confidential, the registrant may not bring other persons to an informal discussion, but registrants may be represented by legal counsel.

5.7(2) Unless disqualification is waived by the registrant, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. An informal discussion is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a registrant who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A registrant would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a registrant accordingly agrees that none of the participating board members or staff is disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision-maker.

5.7(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

5.7(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the registrant agrees to a consent order, a statement of charges will be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193G—5.8(17A,272C,544C) Closing complaint files.

5.8(1) *Grounds for closing.* Upon the recommendation of the board's executive officer pursuant to subrule 5.4(5), the recommendation of the disciplinary committee pursuant to rule 193G—5.6(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. The board's decision is final and not eligible for judicial review.

5.8(2) *Cautionary letters.* The board may issue a confidential letter of caution to a registrant when a complaint file is closed that informally cautions or educates the registrant about matters that could

form the basis for disciplinary action in the future if corrective action is not taken by the registrant. Cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

5.8(3) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint.

193G—5.9(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

193G—5.10(17A,272C,544C) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 apply to disciplinary contested cases initiated by the board.

193G—5.11(272C,544C) Disciplinary sanctions.

5.11(1) *Types of sanctions.* The board has authority to impose the following disciplinary sanctions:

a. Revoke a registration issued by the board.

b. Suspend a registration issued by the board.

c. Revoke or suspend the privilege to engage in one or more areas of registered interior design.

d. Impose a period of probation, either with or without conditions.

e. Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for registration renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a registration. The board may also specify that current reference materials be obtained and maintained.

f. Require reexamination, using one or more parts of the National Council for Interior Design Qualification (NCIDQ) examination given to candidates for the registered interior design registration.

g. Impose civil penalties in an amount set by the board but not to exceed $1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193G—5.2(17A,272C,544C).

h. Issue a reprimand.

5.11(2) *Imposing discipline.* Discipline may be imposed against a registrant only by the affirmative vote of a majority of the members of the board who are not disqualified.

5.11(3) *Voluntary surrender.* The board may accept the voluntary surrender of a registration to resolve a pending disciplinary investigation or contested case. The board shall not accept a voluntary surrender of a registration to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and will be published in the same manner as other disciplinary orders.

5.11(4) *Notification requirements.* Whenever a registration is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the registrant shall:

a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the registration has been revoked, suspended or voluntarily surrendered or that the practice of the registrant has been restricted. Such notice shall advise the client to obtain alternative professional services unless the restriction at issue would not impact the registered interior design services provided for that client;

b. Within 30 days of receipt of the board's final order, file with the board copies of the notices sent pursuant to paragraph 5.11(4)*"a."* Compliance with this requirement is a condition for an application for reinstatement.

5.11(5) *Civil penalties.* Factors the board may consider when determining whether to assess the amount of civil penalties include:

a. Whether other forms of discipline are being imposed for the same violation.

b. Whether the amount imposed will be a substantial deterrent to the violation.

c. The circumstances leading to the violation.

d. The severity of the violation and the risk of harm to the public.

e. The economic benefits gained by the registrant as a result of the violation.

f. The interest of the public.

g. Evidence of reform or remedial action.

h. Time lapsed since the violation occurred.

i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.

j. The clarity of the issues involved.

k. Whether the violation was willful and intentional.

l. Whether the registrant acted in bad faith.

m. The extent to which the registrant cooperated with the board.

193G—5.12(272C,544C) Publication of decisions.

5.12(1) The board will publish the name of each registrant disciplined by the board, along with a brief description of the underlying circumstances, regardless of the nature of the violation.

5.12(2) The board will issue a formal press release in those instances in which a registration has been suspended or revoked.

5.12(3) The board will notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board will also notify the CIDQ of disciplinary action taken against an Iowa registrant.

193G—5.13(272C,544C) Reinstatement.

5.13(1) The term "reinstatement," as used in this rule and in rule 193—7.38(17A,272C), includes the reinstatement of a suspended registration, the modification or removal of a practice restriction, the issuance of a registration following the denial of an application to renew a registration, and the issuance of a new registration following the revocation or voluntary surrender of a registration.

5.13(2) Any person whose registration has been revoked, suspended or restricted by the board or who has voluntarily surrendered a registration to conclude a disciplinary investigation or proceeding or whose application to renew a registration has been denied may apply to the board to modify or terminate the suspension, issue or reissue the registration, or modify or remove the restriction in accordance with the provisions of this rule and the terms of the order of revocation, suspension or restriction, denial of registration renewal, or acceptance of voluntary surrender of a registration.

5.13(3) If the applicable order did not establish terms upon which the registrant may apply for reinstatement, an initial application for reinstatement may not be made until one year has elapsed from the date of the order that revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender.

5.13(4) All proceedings for reinstatement will be initiated by the respondent and are subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the grounds of personal investigation the board members or staff before whom the applicant appears.

5.13(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193G—5.11(272C,544C).

5.13(6) The board will not grant an application for reinstatement when the initial order that revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

a. All terms of the sentencing or other criminal order have been fully satisfied;

b. The applicant has been released from confinement and any applicable probation or parole; and

c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

ARC 8555C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Proposing rulemaking related to disciplinary investigations and providing an opportunity for public comment

The Interior Design Examining Board hereby proposes to rescind Chapter 6, "Disciplinary Investigations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The purpose of Chapter 6 is to provide information to the public and registrants about disciplinary investigations and how to submit a complaint to the Board. This chapter is proposed to be rescinded and the content will be combined with other rules regarding disciplinary action in Chapter 5 to perform the same intended benefit of this chapter. That proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 **193G—Chapter 6**.

ARC 8551C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Proposing rulemaking related to disciplinary hearings and providing an opportunity for public comment

The Interior Design Examining Board hereby proposes to rescind Chapter 7, "Disciplinary Proceedings," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The purpose of Chapter 7 is to provide information to the public and registrants about the disciplinary proceedings the Board can impose on a registrant. This chapter is proposed to be rescinded and will be combined with other rules regarding disciplinary action in 193G—Chapter 5 to perform the same intended benefit of Chapter 7. That proposed chapter was approved by the Board on November 1, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 29, 2025. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

January 28, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd= jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799
January 29, 2025 4 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd= y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799

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 by calling 515.725.9030 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

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 **193G—Chapter 7**.

ARC 8679C

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Notice of Intended Action

Proposing rulemaking related to rescission of chapters and providing an opportunity for public comment

The Administrative Services Department hereby proposes to rescind Chapter 1, "Organization and Operation," Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Statewide Programs and Agreements," Chapter 6, "Library Services and Technology Act (LSTA) Program," Chapter 7, "Internet Use Policy," Chapter 10, "Waivers from Administrative Rules," Chapter 11, "Declaratory Orders," and Chapter 12, "Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8A.104(5) and 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.104 and 8A.201 through 8A.234.

Purpose and Summary

This proposed rulemaking is intended to rescind redundant and outdated Uniform Rules on Agency Procedure from the State Library of Iowa's rules (agency number [286]). In addition, the rulemaking rescinds State Library chapters regarding statewide programs, the Library Services and Technology Act Program, and the library's Internet Use Policy. Iowa Code section 8A.202 lists the Department's duties and responsibilities pertaining to library services. These duties were moved to the Department through state government alignment in 2023. The State Library of Iowa's Uniform Rules on Agency Procedure are now redundant because the Department has the same set of rules. The other chapters under agency number [286] are also being rescinded as part of Executive Order 10 because of redundant and outdated language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building, 3rd Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Email: tami.wiencek@iowa.gov

Public Hearing

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

January 14, 2025	Ola Babcock Miller Building
10 to 11 a.m.	Des Moines, Iowa

January 14, 2025	Ola Babcock Miller Building
1:30 to 2:30 p.m.	Des Moines, Iowa

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the 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 **286—Chapter 1**.

ITEM 2. Rescind and reserve **286—Chapter 2**.

ITEM 3. Rescind and reserve **286—Chapter 3**.

ITEM 4. Rescind and reserve **286—Chapter 6**.

ITEM 5. Rescind and reserve **286—Chapter 7**.

ITEM 6. Rescind and reserve **286—Chapter 10**.

ITEM 7. Rescind and reserve **286—Chapter 11**.

ITEM 8. Rescind and reserve **286—Chapter 12**.

ARC 8659C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to administrative and regulatory authority and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 1, "Administrative and Regulatory Authority," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 147.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 147.

Purpose and Summary

This rulemaking proposes to rescind Chapter 1 and adopt a new chapter with the same title. This rulemaking provides the public with information relating to the mission of the Board. The rules describe the organization of the Board and its statutory authority to oversee the practice of medicine and enforce the minimum standards in the practice of medicine.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATIVE AND REGULATORY AUTHORITY

653—1.1(17A,147) Definitions. The following definitions are applicable to the rules of the board of medicine:

"Acupuncture" means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Acupuncturist" means a person licensed to practice acupuncture in this state.

"Alternate member" means a person who is qualified under Iowa Code section 148.2A to substitute for a board member who is disqualified or becomes unavailable for a contested case hearing. An alternate board member is deemed a member of the board only for the hearing panel(s) for which the alternate board member serves.

"Board" means the board of medicine of the state of Iowa.

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

"Director" means the director of the department.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a certificate issued to a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or acupuncture under the laws of the state of Iowa.

"Licensee" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or acupuncture under the laws of the state of Iowa.

"Licensee discipline" or *"discipline"* means any sanction the board may impose upon its licensees for conduct that threatens or denies citizens of this state a high standard of professional care.

"Malpractice" means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a physician in the practice of the physician's profession.

"Medical practice Acts" refers to Iowa Code chapters 147 and 148.

"Order" means a requirement, procedure or standard of specific or limited application adopted by the board relating to any matter the board is authorized to act upon, including the professional conduct of licensees and the examination for licensure and licensure of any person under the laws of this state.

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

"Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery under the laws of this state.

"Practice of acupuncture" means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medical concepts.

"The practice of medicine and surgery" means holding one's self out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition and who shall either offer or undertake, by any means or methods, to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition. This rule shall not apply to licensed podiatrists, chiropractors, physical therapists, nurses, dentists, optometrists, acupuncturists, pharmacists, and other licensed health professionals who are exclusively engaged in the practice of their respective professions.

"Prescription drugs" means drugs, medicine and controlled substances that by law can only be prescribed for human use by persons authorized by law.

"Profession" means medicine and surgery, osteopathic medicine and surgery, or acupuncture.

"Respondent" means a licensee charged by the board in a complaint and statement of charges with violations of statutes or rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, or acupuncture.

"Rule" means a regulation, requirement, procedure, or standard of general application prescribed by the board relating to either the administration or enforcement of Iowa Code chapters 147, 148, and 148E.

653—1.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 147, 148, 148E, and 272C with regard to the practice of medicine and surgery, osteopathic medicine and surgery, and acupuncture.

653—1.3(17A) Organization of board.

1.3(1) The board:

a. Makes policy relative to matters involving medical and acupuncture education, licensure, practice, and discipline.

b. Conducts business according to board-approved policy.

c. Elects a chairperson, vice chairperson and a secretary from its membership at the last regular board meeting prior to May 1 or at another date in April scheduled by the board.

d. Has the authority and powers conferred in Iowa Code chapters 17A, 147, 148 and 272C and may establish committees of the board, the members of which, except for the executive committee, shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include:

(1) Executive committee. The membership is composed of the elected officers of the board and two at-large members appointed by the chairperson. At least one public member is appointed to the executive committee. The executive committee duties may include but are not limited to:

1. Guidance and supervision of the executive director.
2. Budgetary review and recommendations to the board.
3. Review and recommendations to the board on rules and legislative proposals.
4. Study and recommendations to the board on practice issues and policy.

(2) Screening committee. The committee reviews complaints and makes recommendations to the board on appropriate action including further investigation or referral to the board for closure.

(3) Licensure committee. Its duties may include:

1. Recommending appropriate action on completed applications for licensure.
2. Conducting interviews with applicants when appropriate.
3. Reviewing licensure examination matters.
4. Reviewing and recommending to the board appropriate changes in licensure application forms.
5. Reviewing and making recommendations to the board regarding volunteer physician applicants who wish to participate in the state-indemnified volunteer physician program and who are under investigation or who have or have had disciplinary action against a license in the present or in the past.
6. Making recommendations on licensure policy issues.

(4) Monitoring committee. The committee oversees the monitoring of licensees under board orders and makes recommendations to the board on these matters.

e. Establishes, in accordance with Iowa Code section 148.2A, a pool of alternate board members.

1.3(2) A majority of the members of the board shall constitute a quorum. Official action, including filing of formal charges or imposition of discipline, requires a majority vote of members present.

653—1.4(17A) Official communications. All official communications, including submissions and requests, should be addressed to the Executive Director, Iowa Board of Medicine, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

653—1.5(17A) Office hours. The office of the board is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

653—1.6(17A) Meetings. The board shall meet at least six times per year. Dates and location of board meetings may be obtained from the board's office or on the board's website at dial.iowa.gov. Except as otherwise provided by statute, all board meetings are open, and the public is permitted to attend the meetings.

653—1.7(17A,272C) Adoption of uniform and model rules. The board hereby adopts by reference the following:

1. Uniform Rules on Agency Procedure, 481—Chapter 2, 481—Chapter 3, 481—Chapter 4, 481—Chapter 5, and 481—Chapter 6.
2. Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members, 481—Chapter 7.
3. Licensing and Child Support Noncompliance, Student Loan Repayment Noncompliance, and Nonpayment of State Debt, 481—Chapter 8.
4. Model Rules for Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions, 481—Chapter 502.
5. Model Rules for Licensee Review Committee, 481—Chapter 505.
6. Model Rules for Contested Cases Before Licensing Boards, 481—Chapter 506.

These rules are intended to implement Iowa Code chapters 17A and 272C.

ARC 8706C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to rescission of chapters and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Waivers," Chapter 12, "Nonpayment of State Debt," Chapter 14, "Iowa Physician Health Committee—Iowa Physician Health Program," Chapter 15, "Child Support Noncompliance," Chapter 18, "Military Service and Veteran Reciprocity," and Chapter 25, "Contested Case Proceedings," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 22, 147, 148, 148E, 252J, 272C and 272D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 22, 147, 148E, 252J and 272D and section 272C.3.

Purpose and Summary

This rulemaking proposes to rescind and reserve Chapters 2, 3, 12, 14, 15, 18 and 25. In light of the Board's realignment with the Department of Inspections, Appeals, and Licensing resulting from 2023 Iowa Acts, Senate File 514, the Board finds it is unnecessary and unreasonably duplicative to repromulgate these chapters. It is the Board's intent to rely on the model chapters of the Department (agency number [481]). The rescission of these chapters is in line with the stated goal of Iowa Code chapter 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Chapter 2 provides guidance on public records and how individuals can receive public records from the Board. The chapter is substantially similar to 481—Chapter 5, which the Board will adopt by reference and utilize for the purposes of public records.

Chapter 3 provides guidance to the public and licensees on when and how to request a waiver of an administrative rule. The chapter is substantially similar to 481—Chapter 6, which will be utilized by the Board for waivers.

Chapter 12 implements Iowa Code chapter 272D, which provides for procedures when a license may be denied, suspended, or revoked for nonpayment of a state debt and child support obligations. This chapter is substantially similar to 481—Chapter 8, which will be utilized by the Board for these procedures.

Chapter 14 creates the Iowa Physician Health Program and Committee. This is a confidential program to ensure that licensees are safe to practice their profession. The program provides ongoing monitoring for eligible participants. This chapter is substantially similar to 481—Chapter 505, which will be utilized by the Board for its impaired practitioner program for physicians.

Chapter 15 implements Iowa Code chapter 252J and provides the process for taking action against a licensee if the licensee is not compliant with child support orders. This chapter is substantially similar to 481—Chapter 8, which will be utilized by the Board to carry out these statutory requirements.

Chapter 18 provides a mechanism for United States veterans and spouses of veterans to apply for and be granted reciprocity for licensing requirements in the state of Iowa. This chapter is substantially similar to 481—Chapter 7, which the Board will adopt by reference in place of this chapter.

Chapter 25 provides the licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. The Board intends to rescind this chapter and adopt by reference 481—Chapter 506, which is a model rules chapter and substantially similar to this chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 **653—Chapter 2**.

ITEM 2. Rescind and reserve **653—Chapter 3**.

ITEM 3. Rescind and reserve **653—Chapter 12**.

ITEM 4. Rescind and reserve **653—Chapter 14**.

ITEM 5. Rescind and reserve **653—Chapter 15**.

ITEM 6. Rescind and reserve **653—Chapter 18**.

ITEM 7. Rescind and reserve **653—Chapter 25**.

ARC 8695C

MEDICINE BOARD[653]

Notice of Intended Action

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

The Board of Medicine hereby proposes to rescind Chapter 8, "Fees," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 148 and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 8 and adopt a new chapter with the same title. The purpose of this rulemaking is to establish fees for physicians, acupuncturists, and genetic counselors. Fees include initial licensing fees, renewal fees, late fees, and reinstatement fees.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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

CHAPTER 8
FEES

653—8.1(147,148,272C) Definitions.

"Board" means the Iowa board of medicine.

"Online transaction fee" means a fee of $7 assessed by the board for completing an online purchase. The online transaction fee is in addition to the actual service provided.

653—8.2(147,148,272C) Application and licensure fees for acupuncturists.

8.2(1) The fees are as follows:

a. Initial application fee for licensure as an acupuncturist, $300.

b. Reactivation of application for licensure, $100.

c. Renewal fee for licensure as an acupuncturist, $300.

d. Fee for the evaluation of the fingerprint packet and the division of criminal investigation (DCI) and Federal Bureau of Investigation (FBI) criminal history background checks, $45.

e. Fee for reapplication of an acupuncture license, $400.

f. Penalty for failure to renew before expiration, $50.

8.2(2) Upon written request and payment of the designated fee, the board shall provide the following information about the status of an acupuncturist's license or acupuncturist's past registration:

a. Certified statement that verifies the status of licensure or past registration in Iowa that requires the board seal or a letter of good standing, $25.

b. Verification of the status of licensure or past registration in Iowa that does not require a certified statement or letter, $20.

653—8.3(147,148,272C) Interstate medical licensure compact (IMLC) fees.

8.3(1) *Service fee for an application for an IMLC letter of qualification.* The service fee is paid directly to the interstate medical licensure compact commission. The interstate commission retains a portion of this service fee and remits a portion of this service fee to the board. The service fee paid to the interstate commission includes the $45 fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI.

8.3(2) *Licensure fee for an Iowa license issued through the IMLC.* The licensure fee is paid directly to the interstate medical licensure compact commission. An applicant shall pay a licensure fee of $450 plus a service fee retained by the interstate commission.

8.3(3) *Licensure fee for renewal of active Iowa license issued through the IMLC.* The licensure fee is paid directly to the interstate medical licensure compact commission. The licensee shall pay the licensure fee described in subparagraph 8.4(1)*"c"*(1) plus a service fee retained by the interstate commission. If the license is not renewed prior to expiration, the licensee will incur a penalty as described in paragraph 8.4(1)*"d."*

653—8.4(147,148,272C) Application and licensure fees to practice medicine and surgery or osteopathic medicine and surgery or administrative medicine.

8.4(1) Fees for permanent licensure.

a. Initial licensure, $450 plus the $45 fee for evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI.

b. Reactivation of application for licensure, $150.

c. Renewal of an active license to practice.

(1) $550 if renewal is made via paper application, or $450 if renewal is made via online application, per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months.

(2) No renewal fee if a physician was on active duty in the U.S. armed forces, reserves or national guard during the renewal period. "Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

d. Penalty for failure to renew before expiration, $100 per calendar month after the expiration date of the license up to $200.

e. Placing a license on inactive status or allowing a license to become inactive, no fee.

f. Reactivation of a license to practice one year or more after becoming inactive, $500 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

g. Reactivation of a license within one year of becoming inactive, $550 except when the license in the most recent license period had been granted for less than 24 months. In that case, the reinstatement fee is prorated according to the date of issuance and the physician's month and year of birth.

8.4(2) Fees for resident physician licensure.

a. Application for a resident physician license, $100 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Extension of a resident physician license, $25.

c. Late fee for extension of a resident physician license, $50, to be paid in addition to the extension fee.

8.4(3) Fees for special physician licensure.

a. Application for a special physician license, $300 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Renewal of a special physician license, $200.

8.4(4) Fees for temporary physician licensure.

a. Application for a temporary physician license, $100 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Renewal of a temporary physician license, $50.

8.4(5) Fee for photocopy of a licensure application, $20.

8.4(6) Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, $45.

653—8.5(147,148,272C) Fees for verification of physician licensure and certification of examination scores.

8.5(1) *Verification fees.*

a. Physicians shall use VeriDoc to secure a certified statement that verifies Iowa licensure status for any state medical board that accepts VeriDoc. VeriDoc is accessible at www.veridoc.org. The fee for this service is $30.

b. A physician who needs a certified statement that verifies Iowa licensure status for a state medical board that does not accept verification from VeriDoc shall make a written request for a certified statement with payment of a $30 verification fee to the board of medicine. The board shall provide a certified statement that verifies Iowa licensure status to the nonaccepting state medical board.

c. The fee for verification of Iowa licensure status that does not require a certified statement or letter is $15.

d. The board provides an electronic verification service whereby users can input the licensee's license number to learn the licensee's current licensure status. There is no fee for this service. The board shall provide a license number for an individual caller to use in the automated telephone or electronic verification service. Businesses that utilize verifications will be required to utilize the automated telephone or electronic verification service or the alternative outlined in paragraph 8.5(1)*"c."*

8.5(2) *Fees for certification of physician examination scores.* Upon request and payment of the designated fee, the board may provide certification of scores of an examination given by the board in Iowa as permitted under Iowa Code section 147.21 and 653—paragraph 2.13(2)*"f."* The scores available from the board are those from examinees who took the state-constructed examination.

a. Certified statement of grades attained by examination, $45.

b. Certified statement of grades attained by examination including examination history or additional documentation, $55.

653—8.6(147,148,272C) Public records.

8.6(1) *Public records available at no cost.* The following records are available at no cost to the public:

a. Public action taken by the board against a licensee may be found under the licensee's name on the board's website under "Find A Physician." Public actions are posted on the board's website within approximately one week after the board has taken action.

b. Electronic files of press releases, statements of charges, final orders and consent agreements from each board meeting are available on the board's website.

8.6(2) *Purchase of public records.* Public records are available according to 481—Chapter 5.

653—8.7(147,148,272C) Licensee data list. A data list of all physicians and acupuncturists includes the following information about each licensee: full name, year of birth, work address and telephone number (or other contact information on file if licensee's work address and telephone number are not available), Iowa county (if applicable), medical school (if applicable), year of graduation from medical school (if applicable), two medical specialties (if available), license issue date, license expiration date, license number, license type, license status, and an indicator of whether the board has taken any public action on the license. There is no fee for an electronic file of this list. A printed copy of the data list is available for a fee.

653—8.8(147,148,272C) Returned checks. The board will charge a fee of $25 for a check returned for any reason. If a license had been issued by the board office based on a check that is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee shall be subject to disciplinary action for noncompliance with board rules.

653—8.9(147,148,272C) Copies of the laws and rules. Electronic copies of laws and rules pertaining to the practice of medicine or acupuncture are available at www.legis.iowa.gov at no cost. Printed copies of these laws and rules are available for a fee.

653—8.10(147,148,272C) Refunds. Application and licensure fees will be collected by the board and are not refundable except by board action in unusual instances.

653—8.11(17A,147,148,272C) Waiver prohibited. Licensure and examination fees in this chapter are not subject to waiver.

653—8.12(8,147,148,272C) Monitoring fee. The board may require payment of up to $300 per quarter to cover the board's expenses to monitor a licensee's compliance with a settlement agreement or final decision and order.

653—8.13(147,148,272C) Application and licensure fees for genetic counselors.

8.13(1) The fees are as follows:

a. Initial application fee for licensure, $200.

b. Reactivation of application for licensure, $100.

c. Renewal of an active license, $200.

d. Penalty for failure to renew before expiration, $50.

e. Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, $45.

f. Fee for reactivation of a license, $300.

8.13(2) Upon written request and payment of the designated fee, the board shall provide the following information about the status of a genetic counselor's license:

a. Certified statement that verifies the status of licensure in Iowa that requires the board seal or a letter of good standing, $25.

b. Verification of the status of licensure in Iowa that does not require a certified statement or letter, $20.

These rules are intended to implement Iowa Code sections 147.11, 147.80, 148.3, 148.5, 148.10, and 148.11.

ARC 8699C

MEDICINE BOARD[653]

Notice of Intended Action

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

The Board of Medicine hereby proposes to rescind Chapter 9, "Permanent and Administrative Medicine Physician Licensure," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147 and 148.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147 and 148.

Purpose and Summary

This rulemaking proposes to rescind Chapter 9 and adopt a new chapter with the same title. This proposed rulemaking sets minimum standards for entry into the medical profession. Iowa residents, licensees, and employers benefit from the rulemaking since it articulates the processes by which individuals apply for licensure as a physician in the state of Iowa, as directed by statute. This includes the processes for initial licensure, renewal, and reactivation. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency through educational qualifications and examinations.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
PERMANENT AND ADMINISTRATIVE MEDICINE PHYSICIAN LICENSURE

653—9.1(147,148) Definitions.

"ABMS" means the American Board of Medical Specialties.

"ACGME" means the Accreditation Council for Graduate Medical Education.

"AMA" means the American Medical Association.

"Any jurisdiction" means any state, the District of Columbia or territory of the United States of America or any other nation.

"Any United States jurisdiction" means any state, the District of Columbia or territory of the United States of America.

"AOA" means the American Osteopathic Association.

"Applicant" means a person who seeks authorization to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine in this state by making application to the board, or a physician who seeks licensure through the IMLC.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Board" means the board of medicine.

"Board-approved resident training program" means a hospital-affiliated graduate medical education program accredited by ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

"Candidate" means a person who applies to sit for an examination administered by the board or its designated testing service.

"Category 1 credit" means any formal education program that is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of AOA. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"CFPC" means the College of Family Physicians of Canada.

"COCA" means the Commission on Osteopathic College Accreditation.

"COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

"Committee" means the licensure committee of the board.

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America.

"Core credentials" means those documents that demonstrate the applicant's identity, medical training and practice history.

"Current, active status" means a license that is in effect and grants the privilege of practicing administrative medicine, medicine and surgery or osteopathic medicine and surgery, as applicable.

"ECFMG" means the Educational Commission for Foreign Medical Graduates.

"Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the IMLC.

"FCVS" means the Federation Credentials Verification Service.

"FLEX" means the Federation Licensing Examination.

"Foreign medical school," also known as an "international medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"FSMB" means the Federation of State Medical Boards.

"IMLC" means the Interstate Medical Licensure Compact enacted in Iowa Code chapter 147B.

"Inactive license" means any license that is not in current, active status.

"Incidentally called into this state in consultation with a physician and surgeon licensed in this state" as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as to the care that should be provided, but the consulting physician may not personally perform procedures, write orders, or prescribe for the patient.
4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.
5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient's care.

"Initial license" means the first permanent or administrative medicine license granted to a qualified individual.

"International medical school," also known as a "foreign medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"Interstate commission" means the interstate commission created pursuant to Iowa Code chapter 147B.

"LCME" means Liaison Committee on Medical Education.

"LMCC" means enrollment in the Canadian Medical Register as Licentiate of Medical Council of Canada with a certificate of registration as proof.

"MCCEE" means the Medical Council of Canada Evaluating Examination.

"Medical degree" means a degree of doctor of medicine and surgery or osteopathic medicine and surgery or comparable education from a foreign medical school.

"National Practitioner Data Bank" is a national data bank of disciplinary actions taken against health professionals, including physicians.

"NBME" means the National Board of Medical Examiners.

"NBOME" means the National Board of Osteopathic Medical Examiners.

"Observer" means a person who is not enrolled in an LCME- or COCA-accredited medical school or osteopathic medical school, who observes care to patients in Iowa for a defined period of time and for a noncredit experience, and who is supervised and accompanied by an Iowa-licensed physician as defined in subrule 9.2(3). An observer shall not provide or direct hands-on patient care, regardless of the observer's level of training or supervision. The supervising physician may authorize an observer to read a chart, observe a patient interview or examination, or witness procedures, including surgery. An observer shall not chart; touch a patient as part of an examination; conduct an interview; order, prescribe or administer medications; make decisions that affect patient care; direct others in providing patient care; or conduct procedures, including surgery. Any of these activities requires licensure to practice in Iowa. An unlicensed physician observer or a medical student observer who is not enrolled in an LCME- or COCA-accredited medical school may touch a patient to verify a physical finding in the immediate presence of a physician but shall not conduct a more inclusive physical examination.

An unlicensed physician observer may:

1. Participate in discussions regarding the care of individual patients, including offering suggestions about diagnosis or treatment, provided the unlicensed physician observer does not direct the care; and

2. Elicit information from a patient provided the unlicensed physician observer does not actually perform a physical examination or otherwise touch the patient.

"Permanent licensure" means licensure granted after review of the application and core credentials to determine that the individual is qualified to enter into clinical practice.

"Practice" means the practice of medicine and surgery or osteopathic medicine and surgery.

"Primary source verification" means:

1. Verification of the authenticity of documents with the original source that issued the document.
2. Original source verification by another jurisdiction's physician licensing organization.
3. Original source verification by the FSMB's Federation Credentials Verification Service.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada.

"Reactivation" means the process for returning an inactive license to current, active status.

"Relinquishment" means that a person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine is deemed abandoned if the person fails to renew or reactivate the license within five years after its expiration. A license that has been relinquished is no longer valid or renewable. Relinquishment is not disciplinary in nature.

"Resident physician" means a physician enrolled in an internship, residency or fellowship.

"Resident training program" means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

"Service charge" means the amount charged for making a service available online and is in addition to the actual fee for a service itself.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction.

"Terminated license" means a nondisciplinary process by which an Iowa license issued through the Interstate Medical Licensure Compact is no longer eligible for renewal. A compact license is terminated when a licensee no longer meets the IMLC qualifications. A terminated IMLC license may not be reinstated.

"Uniform application for physician state licensure" means a web-based application that is intended to standardize and simplify the licensure application process for state medical licensure.

"USMLE" means the United States Medical Licensing Examination.

653—9.2(147,148) General licensure provisions.

9.2(1) *Licensure required.* Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in subrule 9.2(2).

9.2(2) *Licensure not required.* The following persons are not required to obtain a license to practice in Iowa:

a. Those persons described in Iowa Code section 148.2(1) through 148.2(5). A medical student or osteopathic medical student in an international medical school may not take on the role of a medical student in the patient care setting unless the student is enrolled in the University of Iowa's Carver College of Medicine or in Des Moines University's College of Osteopathic Medicine; however, an international medical student or graduate of an international medical school not enrolled at either of these institutions may be an observer as defined in rule 653—9.1(147,148).

b. Those persons who are incidentally called into this state in consultation with a physician or surgeon licensed in this state as described in Iowa Code section 148.2(5) and as defined in rule 653—9.1(147,148).

c. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa on a temporary basis to aid disaster victims at the time of a disaster in accordance with Iowa Code section 29C.6.

d. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come to Iowa to participate in further medical education may participate in patient care under the request and supervision of the patient's Iowa-licensed physician in charge of the education. The Iowa-licensed physician shall retain the primary responsibility for management of the patient's care.

e. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa to serve as expert witnesses as long as they do not provide treatment.

f. Physicians and surgeons from out of state who hold a current, active license in good standing in another United States jurisdiction and who accompany one or more individuals into Iowa for the purpose of providing medical care to these individuals on a short-term basis; e.g., a team physician for an out-of-state college football team that comes into Iowa for a game.

g. Physicians and surgeons who come to Iowa to observe patient care and who do not provide or direct hands-on patient care.

h. Visiting resident physicians who come to Iowa to practice as part of their resident training program if under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (more information can be found in rule 653—10.5(147,148)).

9.2(3) *Supervision of an observer.* An Iowa-licensed physician who supervises an observer shall accompany the observer and solicit consent from each patient, where feasible, for the observation. The physician shall inform the patient of the observer's background; e.g., a high school student considering a

medical career or a medical graduate who is working on licensure. The supervising physician ensures that the observer remains within the scope of an observer as defined in rule 653—9.1(147,148).

653—9.3(147,148) Eligibility for licensure.

9.3(1) *Requirements.* To be eligible for permanent or administrative medicine licensure, an applicant shall:

a. Fulfill the application requirements specified in rule 653—9.4(147,148).

b. Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board shall be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for the educational institutions granting degrees in medicine and surgery; and
2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant shall meet one of the following requirements:

1. Hold a valid certificate issued by ECFMG;
2. Pass the MCCEE;
3. Have successfully completed a fifth pathway program established in accordance with AMA criteria;
4. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and have successfully completed three years of resident training in a program approved by the board; and have submitted evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction; or
5. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and hold board certification by a specialty board approved by ABMS or AOA; and submit evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction.

c. Have successfully completed one year of resident training in a hospital-affiliated program approved by the board at the time the applicant was enrolled in the program. An applicant who is a graduate of an international medical school must have successfully completed 24 months of such training.

(1) For those required to have 12 months of training, the program shall have been 12 months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board. For those required to have 24 months of training, the program shall have been 24 continuous months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board.

(2) Resident training approved by the board must be accredited by an accrediting agency recognized by the board for the purpose of accrediting resident training programs.

(3) The board approves resident training programs accredited by:

1. ACGME;
2. AOA;
3. RCPSC; and
4. CFPC.

(4) The board may accept resident training that is not accredited as specified in subparagraph 9.3(1) *"c"*(3) on a case-by-case basis. In making this determination, the board may consider any relevant factors, including but not limited to the following:

1. The length of time the program has been in existence;
2. The location of the program;
3. The institution or organization that administers the program;

4. The reason that the program is not accredited; and

5. Whether the program is accredited or recognized by any agency other than those listed in subparagraph 9.3(1)*"c"*(3).

(5) The board may accept each 12 months of practice as a special licensee as equivalent to one year of resident training in a hospital-affiliated program approved by the board.

(6) The board may accept a current, active ABMS or AOA board certification obtained through an alternate pathway as equivalent to resident training in a hospital-affiliated program approved by the board. The alternate pathway must be a minimum of 24 months completed at an institution with a program approved by the board as specified in subparagraph 9.3(1)*"c"*(3).

d. Pass one of the licensure examinations or combinations as prescribed in rule 653—9.7(147,148).

9.3(2) *Exceptions to the eligibility requirements.*

a. A military service applicant or a veteran may apply for credit for verified military education, training, or service toward any experience or educational requirement for permanent licensure under this subrule or may be eligible for permanent licensure through reciprocity as specified in 653—Chapter 18.

b. A physician who holds a valid Letter of Qualification asserting eligibility for licensure through the IMLC is eligible for a permanent Iowa medical license.

653—9.4(147,148) Licensure application.

9.4(1) *Requirements.* To apply for licensure, an applicant shall:

a. Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) as specified in 653—paragraph 8.4(1)*"a"*; and

b. Complete and submit the application and forms provided by the board, including required core credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant that has been signed by the applicant in the physical presence of a notary public.

c. Pass one of the examinations as prescribed in rule 653—9.7(147,148) and authorize the testing authority to verify scores.

9.4(2) *Application.* The application shall require the following information:

a. Full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

b. A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

c. A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application.

d. A certified statement of scores on any licensure examination required in rule 653—9.7(147,148) that the applicant has taken in any jurisdiction. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

e. A photocopy of the applicant's medical degree issued by an educational institution.

(1) A complete translation of any diploma not written in English shall be submitted. An official transcript, written in English and received directly from the school, showing graduation from medical school is a suitable alternative.

(2) An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

(3) If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

f. A sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. If a sworn statement from an official of the educational

institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

g. An official transcript, or its equivalent, received directly from the school for every medical school attended if requested by the board. A complete translation of any transcript not written in English shall be submitted if requested by the board. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

h. If the educational institution awarding the applicant the degree has not been approved by the board, a current ECFMG status report or evidence of successful completion of a fifth pathway program in accordance with criteria established by AMA. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

i. Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)*"c."* An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

j. Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

k. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

l. A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process.

m. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

n. A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

653—9.5(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

9.5(1) *Eligibility.* A person may seek licensure by verification if the person is currently licensed as a physician in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

9.5(2) *Board application.* The applicant must submit the following:

a. A completed application for licensure by verification.

b. A nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(1) *"a."*

c. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

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

e. Proof of passing an examination as required by rule 653—9.7(147,148).

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

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

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

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

9.5(3) *Applicants with prior discipline.* If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

9.5(4) *Applicants with pending licensing complaints or investigations.* If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

9.5(5) *Temporary licenses.* Applicants who satisfy all requirements for a license under this section except for passing a required examination specific to the laws of this state may be issued a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months. The applicant must submit proof of passing the required examination before the temporary license expires.

653—9.6(147,148) Licensure examinations.

9.6(1) *USMLE.*

a. The USMLE is a multipart examination consisting of Step 1, Step 2, and Step 3. Steps 1 and 2 are administered by NBME and ECFMG. The board contracts with FSMB for the administration of Step 3.

b. Applications are available at Department of Examination Services, FSMB, 400 Fuller Wiser Road, Suite 300, Euless, Texas 76039, or www.fsmb.org.

c. Candidates who meet the following requirements are eligible to take USMLE Step 3:

(1) Submit a completed application form and pay the required examination fee as specified in rule 653—8.3(147,148,272C).

(2) Document successful completion of USMLE Steps 1 and 2 in accordance with the requirements of NBME. Graduates of a foreign medical school shall meet the requirements of ECFMG.

(3) Document holding a medical degree from a board-approved educational institution. If a candidate holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the candidate shall meet the requirements specified in subparagraph 9.3(1)*"b"*(3).

(4) Document successful completion of a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Step 3 or enrollment in a resident training program approved by the board at the time of the application for Step 3.

d. The following conditions apply to applicants for licensure in Iowa who utilize USMLE as the licensure examination:

(1) Passing Steps 1, 2, and 3 is required within a ten-year period beginning with the date of passing either Step 1 or Step 2, whichever occurred first. If the applicant did not pass Steps 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint M.D./Ph.D. or D.O./Ph.D. program.

(2) Step 3 may be taken and passed only after Steps 1 and 2 are passed.

(3) A score of 75 or better on each step shall constitute a passing score on that step.

(4) Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Step 1 or six attempts on Step 2 CK and Step 2 CS combined or three attempts on Step 3.

9.6(2) *NBME.* Successful completion of NBME Parts I, II and III with a passing score of 75 or better on each part is required for NBME certification.

9.6(3) *FLEX.*

a. (Old) FLEX is a three-day examination administered from 1968 to 1985. Applicants who took (Old) FLEX shall provide evidence of successful achievement of at least two of the following:

(1) Certification under seal that the applicant passed FLEX with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two sittings.

(2) Verification under seal of medical licensure in the state that administered the examination.

(3) Evidence of current certification by an American specialty board approved or recognized by the Council of Medical Education of AMA, ABMS, or AOA.

b. (New) FLEX is a three-day nationally standardized examination administered from 1985 to 1994. To be eligible for licensure, the candidate must have passed both components with a FLEX score of 75 or better within a seven-year period beginning with the date of initial examination.

9.6(4) *Combination examination sequences.* The board approved the following licensing combinations of examinations for licensure only if completed prior to January 1, 2000. These combinations are now only acceptable from an applicant who already holds a license from any United States jurisdiction.

a. FLEX Component I plus USMLE Step 3 with a passing score of 75 or better on each examination;

b. NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus FLEX Component II with a passing score of 75 or better on each examination; or

c. NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus NBME Part III or USMLE Step 3 with a passing score of 75 or better on each examination.

9.6(5) *COMLEX.* COMLEX is a three-level examination that replaced the three-part NBOME examination. All three examinations must be successfully completed in sequential order within ten years of the successful completion of COMLEX Level 1. If the applicant did not pass Levels 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint D.O./Ph.D. or M.D./Ph.D. program.

a. A standard score of 400 on Level 1 or Level 2 is required to pass the examination. A standard score of 350 on Level 3 is required to pass the examination.

b. A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Level 3 or enrollment in a resident training program approved by the board at the time of the application for Level 3.

c. Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Level 1 or six attempts on Level 2 CE and Level 2 PF combined or three attempts on Level 3.

d. Each COMLEX level must be passed individually, and individual level scores shall not be averaged to compute an overall score.

e. Level 3 may be taken and passed only after Levels 1 and 2 are passed.

f. A failure of any COMLEX level, regardless of the jurisdiction for which it was taken, shall be considered a failure of that level for the purposes of Iowa licensure.

9.6(6) *NBOME.*

a. NBOME was a three-part examination. All three parts must have been successfully completed in sequential order within seven years of the successful completion of NBOME Part 1.

b. A passing score is required on each part of the examination.

c. A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for NBOME Part 3. Candidates shall have completed their resident training by the last day of the month in which the examination was taken.

d. Successful completion of a three-year resident training program is required if the applicant passes the examination after more than six attempts on Part 1 or six attempts on Part 2 or three attempts on Part 3.

e. Each NBOME part must have been passed individually, and individual part scores shall not be averaged to compute an overall score.

f. Part 3 must have been taken and passed only after Parts 1 and 2 were passed.

g. A failure of any NBOME part, regardless of the jurisdiction for which it was taken, shall be considered a failure of that part for the purposes of Iowa licensure.

9.6(7) *LMCC.* The board accepts toward Iowa licensure a verification of a licensee's registration with the Medical Council of Canada, based on passing both parts of the Medical Council of Canada Qualifying Examination.

9.6(8) *State licensing examinations.* Licensing examinations administered by the board of medicine or another U.S. jurisdiction prior to 1974 are accepted if the examination was passed according to criteria established by that state at the time and led to licensure in that state.

653—9.7(147,148) Permanent licensure application review process. The process below is utilized to review each application. Priority is be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

9.7(1) An application for initial licensure will be considered open from the date the application form is received in the board office with the nonrefundable initial licensure fee.

9.7(2) After reviewing each application, board staff will notify the applicant about how to resolve any problems. An applicant shall provide additional information when requested by staff or the board.

9.7(3) If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

9.7(4) If the final review indicates questions or concerns that cannot be remedied by continued communication with the physician, the executive director, director of licensure and director of legal affairs will determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

a. If there is no current concern, staff will administratively grant the license.

b. If any concern exists, the application will be referred to the committee.

9.7(5) Staff will refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

9.7(6) If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant the license administratively.

9.7(7) If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

a. Request an investigation;

b. Request that the applicant appear for an interview;

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

d. Grant a license;

e. Grant a license under certain terms and conditions or with certain restrictions;

f. Request that the applicant withdraw the licensure application; or

g. Deny a license.

9.7(8) The board will consider applications and recommendations from the committee and will:

a. Request further investigation;

b. Require that the applicant appear for an interview;

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

d. Grant a license;

e. Grant a license under certain terms and conditions or with certain restrictions;

f. Request that the applicant withdraw the licensure application; or

g. Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.17(147,148).

653—9.8(147,148) Licensure application cycle.

9.8(1) *Failure to submit application materials.* If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application will be considered inactive.

9.8(2) *Reactivation of the application.* To reactivate the application, an applicant shall submit a nonrefundable fee for reactivation of the application as specified in 653—paragraph 8.4(1)*"b"* within 30 days. If the application is not reactivated within 30 days, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

9.8(3) *Period of reactivation.* The period for reactivation of application shall extend 90 days from the date the request and fee are received in the board office. During this period, the applicant shall update core credentials and submit the remaining requested materials. If the applicant does not update core credentials or submit all materials during the 90-day period of reactivation, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

653—9.9(147,148) Discretionary board actions on licensure applications. As circumstances warrant, the board may determine that any applicant for licensure is subject to the following:

9.9(1) The board may impose limits or restrictions on the practice of any applicant in this state that are equal in force to the limits or restrictions imposed on the applicant by any jurisdiction.

9.9(2) The board may defer final action on an application for licensure if there is an investigation or disciplinary action pending against an applicant in any jurisdiction until such time as the board is satisfied that licensure of the applicant poses no risk to the health and safety of Iowans.

9.9(3) The board is not precluded from taking disciplinary action after licensure is granted related to issues that arose in the licensure application process.

653—9.10(147,148) Issuance of a license.

9.10(1) *Issuance.* Upon the granting of permanent or administrative medicine licensure, staff will issue a license to practice that will expire on the first day of the licensee's birth month.

a. Licenses of persons born in even-numbered years shall expire in an even-numbered year, and licenses of persons born in odd-numbered years shall expire in an odd-numbered year.

b. The license shall not be issued for a period less than two months or greater than two years and two months, in accordance with the licensee's month and year of birth.

c. When a resident physician receives a permanent Iowa license, the resident physician license will immediately become inactive.

d. When a physician with a special license receives a permanent Iowa license, the special license will immediately become inactive.

e. When a physician with a permanent Iowa license receives an Iowa administrative medicine license, the permanent Iowa license will immediately become inactive.

f. A physician with an active permanent Iowa license is ineligible for an Iowa resident license.

9.10(2) *Display of license certificate.* The license certificate shall be displayed in the licensee's primary location of practice.

653—9.11(147,148) Notification required to change the board's data system.

9.11(1) *Change of contact information.* A licensee shall notify the board of any change in the home address, the address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

9.11(2) *Change of name.* A licensee shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

9.11(3) *Deceased.* A licensee file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate or other reliable information of the licensee's death.

9.11(4) *Practice name.* A licensee shall practice under the licensee's full legal name.

653—9.12(147,148) Renewal of a permanent or administrative medicine license.

9.12(1) *Licensee obligation.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

9.12(2) *Renewal application requirements.* A licensee seeking renewal shall submit a completed renewal application; information on continuing education, training on chronic pain management, training on end-of-life care, and training on identifying and reporting abuse; and the required fee prior to the expiration date on the current license.

a. Renewal fee.

(1) The fees for renewal are specified in 653—subparagraph 8.4(1)*"c"*(1).

(2) There is no renewal fee due for a physician who was on active duty in the U.S. armed forces, reserves or national guard during the renewal period.

(3) A physician who fails to renew before the expiration of the license is charged a penalty fee as set forth in 653—paragraph 8.4(1)*"d."*

b. The requirements for continuing education and training on identifying and reporting abuse are found in 653—Chapter 11.

9.12(3) *Issuance of a renewal.* Upon receipt of the completed renewal application, staff will administratively issue a two-year license that expires on the first day of the licensee's birth month. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

9.12(4) *Failure to renew.* The license will become inactive and invalid if the licensee fails to renew a license within two months following its expiration date. A licensee whose license is invalid or inactive is prohibited from practice until the license is reactivated in accordance with rule 653—9.15(147,148).

9.12(5) *Display of license.* Renewal licenses shall be displayed along with the license certificate in the primary location of practice.

653—9.13(147,148) Inactive status of a license.

9.13(1) *Definition of inactive status.* An inactive license is any license that is not a current, active license.

a. "Inactive status" may include licenses formerly known as delinquent, lapsed, or retired.

b. A physician whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice medicine under an Iowa license until the license is reactivated to current, active status. A licensee who practices under an Iowa license when the license is inactive may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, or other available legal remedies.

9.13(2) *Mechanisms for becoming inactive.* A licensee seeking to become inactive may submit a written request to the board office, or a license may become inactive by failing to renew a license by the first day of the third month after the expiration date.

653—9.14(147,148) Reactivation of an unrestricted Iowa license.

9.14(1) *Reactivation within one year of the license's becoming inactive.* An individual whose license is in inactive status for up to one year and who wishes to reinstate the license shall submit a completed renewal application; the reinstatement fee; documentation of continuing education; and, if applicable, documentation on training on chronic pain management, end-of-life care, and identifying and reporting abuse. All of the information shall be received in the board office within one year of the license's becoming inactive for the applicant to reinstate under this subrule.

a. Fee for reactivation of an unrestricted Iowa license within one year of the license's becoming inactive. The reactivation fee is specified in 653—paragraph 8.4(1)*"g."*

b. Continuing education and training requirements. Applicants for reactivation shall provide documentation of having completed:

(1) The number of hours of category 1 credit needed for renewal in the most recent license period. None of the credits obtained in the inactive period may be carried over to a future license period; and

(2) Training on chronic pain management, end-of-life care, and identifying and reporting abuse, if applicable, within the previous five years.

c. Issuance of a reactivated license. Upon receiving the completed application, staff will administratively issue a license that expires on the renewal date that would have been in effect if the licensee had renewed the license before the license expired.

d. Reinstatement application process. The applicant who fails to submit all reinstatement information required within 365 days of the license's becoming inactive shall be required to meet the reinstatement requirements of subrule 9.15(2). For example, if a physician's license expires on January 1, the completed reinstatement application is due in the board office by December 31, in order to meet the requirements of this subrule.

9.14(2) *Reactivation of an unrestricted Iowa license that has been inactive for one year or longer.* An individual whose license is in inactive status and who has not submitted a reactivation application that was received by the board within one year of the license's becoming inactive shall follow the application cycle specified in this rule and shall satisfy the following requirements for reactivation:

a. Submit an application for reactivation to the board. The application shall require the following information:

(1) Full legal name, date and place of birth, license number, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

(2) A chronology accounting for all time periods from the date of initial licensure;

(3) Every jurisdiction in which the applicant is or has been authorized to practice including license numbers and dates of issuance;

(4) Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)*"c"* that was completed since the time of initial licensure. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative;

(5) Verification of the applicant's hospital and clinical staff privileges, and other professional experience for the past five years if requested by the board;

(6) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. Copies of the legal documents may be requested if needed during the review process; and

(9) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

b. Pay the reactivation fee plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks specified in 653—paragraph 8.4(1)*"f."*

c. Provide documentation of completion of 40 hours of category 1 credit within the previous two years and documentation of training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11.

d. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

e. An individual who is able to submit a letter from the board with different reactivation criteria is eligible for reactivation based on those criteria.

653—9.15(147,148) Reinstatement of a restricted Iowa license. A physician whose license has been suspended or revoked following a disciplinary proceeding is required to seek reinstatement pursuant to 653—Chapter 26.

653—9.16(147,148) Relinquishment of license to practice. A person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reactivation of the license within five years after its expiration.

9.16(1) A license will not be reinstated, reissued, or restored once it is relinquished. The person may apply for a new license pursuant to Iowa Code sections 148.3 and 148.11 and 653—Chapters 9 and 10.

9.16(2) The relinquishment of license may be stayed if, at the date of relinquishment, there is an active:

a. Evaluation order pursuant to Iowa Code section 272C.9(1) and rule 653—24.4(272);

b. Combined statement of charges and settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.3(17A);

c. Statement of charges pursuant to Iowa Code section 17A.12(2) and rule 653—25.4(17A);

d. Settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.17(272C);

e. Final decision pursuant to Iowa Code sections 17A.12 and 272C.6 and rule 653—25.24(17A); or

f. Application for reactivation of the license pursuant to rule 653—9.15(147,148) or 653—9.16(147,148).

653—9.17(147,148) Administrative medicine licensure.

9.17(1) *Application.* An application for an administrative medicine license shall be made to the board of medicine pursuant to the requirements established in Iowa Code section 148.3 and this chapter. An applicant for an administrative medicine license shall be subject to all of the permanent licensure requirements established in Iowa Code section 148.3 and this chapter, except that the applicant will not

be required to demonstrate that the applicant has engaged in active clinical practice in the past three years as outlined in paragraphs 9.8(7)*"c"* and 9.15(2)*"d."*

The board may issue an administrative medicine license authorizing the licensee to practice administrative medicine only, as defined by this rule. The license shall be designated "administrative medicine license."

9.17(2) *Fees.* All license and renewal fees shall be paid to the board in accordance with 653—Chapters 8 and 9.

9.17(3) *Demonstration of competence.*

a. If an applicant for initial licensure or reactivation of an administrative medicine license has not actively practiced administrative or clinical medicine in a jurisdiction of the United States or Canada in the past three years, the board may require the applicant to demonstrate competence in a method prescribed by the board in accordance with paragraphs 9.8(7)*"c"* and 9.15(2)*"d."*

b. A physician who holds an administrative medicine license and has not engaged in active clinical practice in a jurisdiction of the United States or Canada for more than three years may be required to demonstrate competence to practice clinical medicine in a method prescribed by the board.

9.17(4) *No exemptions to laws and rules.* A physician with an administrative medicine license is subject to the same laws and rules governing the practice of medicine as a person holding a permanent Iowa medical license.

9.17(5) *Interstate medical licensure compact.* A physician who holds only an administrative medicine license may not be eligible for licensure under the interstate medical licensure compact.

653—9.18(147,147B,148) Licensure through IMLC.

9.18(1) *Requirements for seeking a Letter of Qualification from the board of medicine. An applicant shall meet all of the following requirements:*

a. Designate Iowa as state of principal license. To designate Iowa as state of principal license, the physician must possess a full, unrestricted, permanent Iowa medical license and meet one of the following requirements at the time the application for a Letter of Qualification is reviewed by board staff:

(1) Iowa is the physician's primary residence, or

(2) At least 25 percent of the physician's medical practice occurs in Iowa, or

(3) The physician's employer is located in Iowa, or

(4) If the applicant does not meet any of the requirements under subparagraph 9.18(1)*"a"*(1), (2), or (3), the applicant can designate Iowa as the state of principal license if Iowa is the applicant's state of residence for the purposes of federal income tax.

b. Provide evidence of the following qualifications:

(1) Graduation from a medical school accredited by the LCME, COCA, or a medical school listed in the International Medical Education Directory or its equivalent.

(2) Passage of each component of the USMLE or the COMLEX within three attempts, or any of its predecessor examinations accepted by the board as an equivalent examination for licensure purposes as prescribed in rule 653—9.7(147,148).

(3) Successful completion of graduate medical education approved by the ACGME or the AOA. "Successful completion" means participation in an ACGME or AOA postgraduate training program that achieves ABMS or AOA board eligibility status.

(4) At the time of application, hold specialty certification or a time-unlimited specialty certificate recognized by the ABMS or the AOA. The specialty certification or a time-unlimited specialty certificate does not have to be maintained once a physician is determined to be eligible for licensure through the IMLC.

(5) Has never been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any criminal offense by a court of appropriate jurisdiction.

(6) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(7) Has never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration (DEA).

(8) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

9.18(2) *Application.* A physician seeking licensure through the IMLC who is qualified to designate Iowa as state of principal license shall file an application for a Letter of Qualification with the interstate commission at www.imlcc.org and pay the nonrefundable service fee. The application shall require the following:

9.18(3) *Letter of Qualification.*

a. After evaluation of the applicant's eligibility for licensure, the Board will issue a Letter of Qualification to the applicant verifying or denying the applicant's eligibility. The applicant may appeal a determination of eligibility to the board of medicine within 30 days of issuance of the Letter of Qualification according to the processes outlined in rule 653—9.22(147,148).

b. The Letter of Qualification is valid for 365 days from its date of issuance to request licensure in a member state. The physician must maintain eligibility to claim Iowa as the state of principal license or designate a new state of principal license.

9.18(4) *Expedited licensure.* Physicians who have a valid Letter of Qualification may obtain licensure in Iowa through the IMLC. To obtain a permanent Iowa license through the IMLC, a qualified physician shall:

a. Complete the application process at the IMLC's website, www.imlcc.org.

b. Pay the licensure fee specified in 653—subrule 8.3(2) and any service fees that are required by the IMLC.

c. Comply with the continuing medical education requirements of the board, including mandatory trainings specified in 653—Chapter 11.

9.18(5) *Validity of a license issued through the IMLC.* A license issued through the IMLC is valid for a period consistent with other permanent licenses issued by the board. An Iowa license issued through the IMLC shall be deemed terminated if the licensee fails to maintain a state of principal license.

9.18(6) *Disciplinary actions against licenses issued through the IMLC.*

a. Physicians holding an Iowa license issued through the IMLC are subject to the laws and rules governing the practice of medicine in Iowa.

b. Any disciplinary action taken by another member board of the IMLC against a physician licensed through IMLC shall be deemed unprofessional conduct that may be subject to discipline by the board in addition to any other violation of the board's rules deemed appropriate by the board.

c. If a license issued through the IMLC to a physician is revoked, surrendered, or relinquished in lieu of discipline, or suspended by a member board of the IMLC, then the physician's Iowa expedited license is automatically and immediately suspended, without further action needed, for a period of 90 days upon entry of an order by the board. The 90-day suspension may be terminated early by the board.

d. Disciplinary actions by out-of-state boards can be considered conclusive regarding legal and factual matters. The home board may impose similar or lesser sanctions, as long as the sanctions comply with the board's laws, or pursue separate disciplinary action.

e. If the Iowa board, as the physician's state of principal license, revokes or suspends the physician's license, or accepts a license surrender in lieu of discipline, then all licenses issued to the physician through the IMLC shall automatically be placed, without further action necessary by any member board, on the same status. If the Iowa board subsequently reinstates the physician's license, the licenses issued by the other member boards shall remain encumbered until the member boards take action to reinstate the licenses.

9.18(7) *Renewal of license issued through the IMLC.* To be eligible for renewal of a license issued through the IMLC, a licensee shall:

a. Complete an online renewal application on a form provided by the IMLC at www.imlcc.org.

b. Complete an attestation that the licensee:

(1) Maintains eligibility to designate a state as the state of principal license, pursuant to paragraph 9.21(1)*"a"*;

(2) Maintains a full and unrestricted license in the designated state of principal license;

(3) Has not been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(4) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(5) Has not had a controlled substance license or permit suspended or revoked by a state or the U.S. DEA.

c. Pay licensure fee for the renewal of a license issued through the IMLC and pay any service fee assessed by the IMLC.

d. If audited, submit verification of completion of continuing medical education requirements set forth in 653—Chapter 11.

9.18(8) *Waivers.* The laws and rules relating to the IMLC cannot be waived.

9.18(9) *Advisory opinions.* The board will recognize advisory opinions issued by the interstate commission on the meaning or interpretation of the IMLC, its bylaws, rules and actions when determining an applicant's eligibility for licensure through the IMLC.

653—9.19(147,148) Denial of licensure, determination of ineligibility for licensure through the IMLC, or termination of a license issued through the IMLC.

9.19(1) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

9.19(2) *Appeal procedure.* An applicant who has received a preliminary notice of licensure denial or a Letter of Qualification that asserts the board has determined that the applicant is ineligible for licensure through the IMLC, or a notice that a medical license is ineligible for renewal through the IMLC, may appeal and request a hearing on the issues related to the preliminary notice of licensure denial or ineligibility for licensure or licensure renewal through the IMLC by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the notice was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure, or a Letter of Qualification that asserts the applicant is eligible for licensure through the IMLC, or the applicant is eligible for licensure renewal through the IMLC.

9.19(3) *Hearing.* If an applicant appeals the preliminary notice of licensure denial or a determination of ineligibility for licensure or licensure renewal through the IMLC and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with rule 653—25.30(17A).

a. Hearings for applicants denied licensure, or determined to be ineligible for licensure or licensure renewal through the IMLC are contested cases open to the public.

b. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

c. Evidence supporting the denial of the license or the determination of ineligibility for licensure or licensure renewal through the IMLC may be presented by an assistant attorney general.

d. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure or licensure eligibility or licensure renewal through IMLC.

e. The board, after a hearing on license denial, may grant or deny the application for licensure. The board shall state the reasons for its decision and may grant the license, grant the license with restrictions

or deny the license. The final decision is a public record. After a hearing on ineligibility for licensure renewal through the IMLC, the board may uphold the termination of the license or allow the licensee to renew. The board shall state the reasons for its decision, which is a public record. After a hearing on a Letter of Qualification determination, the board may uphold the ineligible determination or issue a Letter of Qualification asserting the applicant is eligible for licensure through the IMLC. The board shall state the reasons for its decision, which is a public record.

f. Judicial review of a final order of the board denying licensure, issuing a license with restrictions, terminating a license not eligible for renewal through the IMLC, or upholding a Letter of Qualification asserting that an applicant is ineligible for licensure through the IMLC may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

9.19(4) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 9.17(2), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

9.19(5) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, in accordance with subrule 9.17(2), but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and that the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC becomes final. A final decision under this rule is a public record.

These rules are intended to implement Iowa Code chapters 17A, 147, 147B, 148, and 272C.

ARC 8700C

MEDICINE BOARD[653]

Notice of Intended Action

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

The Board of Medicine hereby proposes to rescind Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147 and 148.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147 and 148.

Purpose and Summary

This rulemaking proposes to rescind Chapter 10 and adopt a new chapter with the same title. This proposed rulemaking sets minimum standards for entry into the medical profession with a resident, special, or temporary physician licensure. Iowa residents, licensees, and employers benefit from the rulemaking since it articulates the processes by which individuals apply for these types of physician licenses in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reactivation. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
RESIDENT, SPECIAL AND TEMPORARY PHYSICIAN LICENSURE

653—10.1(147,148) Definitions.

"ABMS" means the American Board of Medical Specialties.

"ACGME" means the Accreditation Council for Graduate Medical Education.

"AMA" means the American Medical Association.

"Any jurisdiction" means any state, the District of Columbia or territory of the United States of America or any other nation.

"Any United States jurisdiction" means any state, the District of Columbia or territory of the United States of America.

"AOA" means the American Osteopathic Association.

"Applicant" means a person who seeks authorization to practice medicine and surgery or osteopathic medicine and surgery in this state by making application to the board.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of health and human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Board" means board of medicine.

"Board-approved activity" means one of the following activities:

1. Covering for an Iowa-licensed physician who unexpectedly is unavailable to provide medical care to the physician's patients;
2. Demonstrating or proctoring that involves providing hands-on patient care to patients in Iowa;
3. Conducting a procedure on a patient in Iowa when the consultant's expertise in the procedure is greater than that of the Iowa-licensed physician who requested the procedure;
4. Providing medical care to patients in Iowa, if the physician is enrolled in an out-of-state resident training program and does not hold a resident or permanent license in the home state of the resident training program;
5. Serving as a camp physician;
6. Participating as a learner in a program of further medical education that allows hands-on patient care when the physician does not currently hold a license in good standing in any United States jurisdiction; or
7. Any other activity approved by the board.

"Board-approved resident training program" means a hospital-affiliated graduate medical education program accredited by the ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

"Category 1 credit" means any formal education program that is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of AOA that is of sufficient scope and depth of coverage of a subject area or theme to form an educational unit and is planned, administered and evaluated in terms of educational objectives that define a level of knowledge or a specific performance skill to be attained by the physician completing the program. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"CFPC" means the College of Family Physicians of Canada.

"Committee" means the licensure committee of the board.

"ECFMG" means the Educational Commission for Foreign Medical Graduates.

"FCVS" means the Federation Credentials Verification Service.

"FSMB" means the Federation of State Medical Boards.

"Incidentally called into this state in consultation with a physician and surgeon licensed in this state" as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as to the care that should be provided, but the consulting physician will not personally perform procedures, write orders, or prescribe for the patient.
4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.
5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient's care.

"LCME" means Liaison Committee on Medical Education.

"Medical degree" means a degree of doctor of medicine and surgery or osteopathic medicine and surgery or comparable education from an international medical school.

"Permanent licensure" means licensure granted after review of the application and credentials to determine that the individual is qualified to enter into practice.

"Postgraduate training" means graduate medical education, e.g., an internship, residency or fellowship, in a hospital-affiliated training program approved by the board at the time the applicant was enrolled in the program.

"Practice" means the practice of medicine and surgery or osteopathic medicine and surgery.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada.

"Resident physician" means a physician enrolled in an internship, residency or fellowship.

"Resident training program" means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

"Service charge" means the amount charged for making a service available online and is in addition to the actual fee for a service itself. For example, one who renews a license online will pay the license renewal fee and a service charge.

"Training for chronic pain management" means required training on chronic pain management identified in 653—Chapter 11.

"Training for end-of-life care" means required training on end-of-life care identified in 653—Chapter 11.

"Training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively.

"Uniform application for physician state licensure" means a web-based application that is intended to standardize and simplify the licensure application process for state medical licensure.

653—10.2(148) Licensure required. Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in 653—subrule 9.2(2).

653—10.3(147,148) Resident physician licensure.

10.3(1) *General provisions.*

a. The resident physician license authorizes the licensee to practice as an intern, resident or fellow while under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery in a board-approved resident training program in Iowa. When the ACGME, AOA, RCPSC, or CFPC fails to offer accreditation for a fellowship or the fellowship fails to seek accreditation, the board will approve the program if the parent program is accredited by one of the aforementioned

accrediting bodies. Completion of one or more years of a program that itself lacks such accreditation does not fulfill the one-year resident training requirement for permanent licensure.

b. An Iowa resident physician license or an Iowa permanent physician license is required of any resident physician enrolled in an Iowa resident training program and practicing in Iowa.

c. A resident physician license will expire on the expected date of completion of the resident training program as indicated on the licensure application.

d. A resident physician license is valid only for practice in the program designated in the application. When the physician leaves that program, the license will immediately become inactive. The director of the resident training program must notify the board within 30 days of the licensee's terminating from the program.

e. A resident physician licensee who changes resident training programs must apply for a new resident physician license as described in subrule 10.3(3). Such changes include a transfer to a different program in the same institution, a move to a program in another institution, or becoming a fellow after completing a residency in the same core program. An individual who contracts with an institution to be in two programs from the time of application for the resident license shall not be required to apply for another resident license for the second program.

f. A visiting resident physician may come to Iowa to practice as a part of the physician's resident training program if the physician is under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary physician license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (more information can be found in rule 653—10.5(147,148)).

g. An Iowa license is not required for residents when they are training in a federal facility in Iowa. An Iowa license is not required for faculty who are teaching in and employed by a federal facility in Iowa and who are licensed in another state.

h. The director of a resident training program that enrolls a resident with an Iowa resident physician license shall report annually on October 1 on the resident's progress and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

i. A resident physician licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

j. A resident physician licensee's file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.3(2) *Resident license eligibility.* To be eligible for a resident license, an applicant must meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.3(3).

b. Be at least 20 years of age.

c. Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board must be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for educational institutions granting degrees in medicine and surgery; and

2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant must:

1. Hold a valid certificate issued by ECFMG, or

2. Have successfully completed a fifth pathway program established in accordance with AMA criteria.

d. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.3(3) *Resident physician licensure application.*

a. Requirements. To apply for resident physician licensure, an applicant shall:

(1) Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) as specified in 653—paragraph 8.4(2)*"a"*; and

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

b. Application. The application shall require the following information:

(1) Full legal name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution.

1. A complete translation shall be submitted for any diploma not written in English. An official transcript, written in English and received directly from the school, verifying graduation from medical school is a suitable alternative. An official FCVS Physician Information Profile is a suitable alternative.

2. If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution;

(5) If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a valid ECFMG certificate or evidence of successful completion of a fifth pathway program in accordance with criteria established by the AMA. An official FCVS Physician Information Profile is a suitable alternative;

(6) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health care facility in any jurisdiction;

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(9) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.3(4) *Resident license application review process.* The process below shall be utilized to review each application for a resident license.

a. An application shall be considered open from the date the application form is received in the board office with the nonrefundable resident licensure fee.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may grant administratively a resident license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively a resident license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a resident license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.3(5) *Resident license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application shall be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

10.3(6) *Extension of a resident physician license.*

a. If the licensee fails to complete the program by the expiration date on the license, the licensee has a one-month grace period in which to complete the program or secure an extension from the board.

b. The resident physician licensee must apply for an extension if the licensee has not been granted permanent physician licensure and the licensee will not complete the program within the grace period. The following extension application materials are due in the board office prior to the expiration of the license:

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee as specified in 653—paragraph 8.4(2)*"b"*; and

(3) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

c. Failure of the licensee to extend a license within one month following the expiration date will cause the license to become inactive and invalid.

d. To extend an inactive resident license within one year of becoming inactive, an applicant shall submit the following:

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee as specified in 653—paragraph 8.4(2)*"b"*; and

(3) A late fee as specified in 653—paragraph 8.4(2)*"c"*; and

(4) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

e. If more than one year has passed since the resident license became inactive, the applicant shall apply for a new resident license as described in subrule 10.3(3).

10.3(7) *Review process for extending a resident license.* The process below shall be utilized to review each request for an extension of a resident license.

a. An extension request shall be considered open from the date the required letters and nonrefundable extension fee are received in the board office.

b. After reviewing each request for extension, staff shall notify the licensee or designee about how to resolve any problems identified by the reviewer. The applicant for license extension shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for continued licensure, staff may grant administratively an extension to a resident license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively an extension to a resident license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information in the request, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively an extension to a resident license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the licensee withdraw the request for an extension; or

(5) Deny a request for an extension of the license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant an extension to the resident physician license;

(4) Grant an extension to the resident physician license under certain terms and conditions or with certain restrictions;

(5) Request that the licensee withdraw the request for an extension; or

(6) Deny a request for an extension of the license. The board may deny an extension of a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial of an extension is set forth in rule 653—9.15(147,148).

10.3(8) *Discipline of a resident license.* The board may discipline a license for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55 or 148.6, Iowa Code chapter 272C, and 653—Chapter 23.

10.3(9) *Transition from a resident license to a permanent license.* When a resident physician receives a permanent Iowa license, the resident physician license shall immediately become inactive.

653—10.4(147,148) Special licensure.

10.4(1) *General provisions.*

a. The board may grant a special license to a physician who is an academic staff member of a college of medicine or osteopathic medicine if that physician does not meet the qualifications for permanent licensure but is held in high esteem for unique contributions the individual has made to

medicine and will make by practicing in Iowa. The license is not designed for physicians in regular faculty positions that could be filled by a physician qualified for permanent licensure in Iowa or for the purpose of training the physician who receives the license. The board will consider granting and renewing a special license on a case-by-case basis.

b. A special license may be issued for a period of not more than one year and may be renewed annually prior to expiration.

c. A special license will specifically limit the licensee to practice at the medical college and at any health care facility affiliated with the medical college.

d. A special license will automatically be placed on inactive status when the licensee discontinues service on the academic medical staff for which the special license was granted.

e. The board may cancel a special license if the licensee has practiced outside the scope of this license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. When cancellation of such a license is proposed, the board shall promptly notify the licensee by sending a statement of charges and notice of hearing by certified mail to the last-known address of the licensee. This contested case proceeding shall be governed by the provisions of 653—Chapter 25.

f. A special physician licensee must notify the board of any change in home address or the address of the place of practice within one month of making an address change.

g. A special physician licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

h. A special physician licensee file will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

i. The board may accept each 12 months of practice as a special licensee as equivalent to one year of postgraduate training in a hospital-affiliated program approved by the board for the purposes of permanent licensure.

10.4(2) *Special license eligibility.* To be eligible for a special license, an applicant shall meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.4(3);

b. Be at least 21 years of age;

c. Be a physician in a medical specialty;

d. Present evidence of holding a medical degree from an educational institution that is located in a jurisdiction outside the United States or Canada and that is listed in the Directory of Medical Schools published by the International Medical Education Directory;

e. Have completed at least two years of postgraduate education in any jurisdiction;

f. Have practiced for five years after postgraduate education;

g. Demonstrate proficiency in English by providing a valid ECFMG certificate or verification of a passing score on the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) examination administered by the Educational Testing Service;

h. Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted; and

i. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.4(3) *Special license application.*

a. Requirements. To apply for a special license, an applicant must:

(1) Pay a nonrefundable special license fee and a fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(3) *"a"*;

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

(3) Provide verification of successful completion of a medical degree;

(4) Provide a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service;

(5) Present a letter from the dean of the medical college in which the applicant will be practicing that indicates all of the following:

1. The applicant has been invited to serve on the academic staff of the medical school and in what capacity;

2. The applicant's qualifications and the unique contributions the applicant has made to the practice of medicine;

3. The unique contributions the applicant is expected to make by practicing in Iowa and how these contributions will serve the public interest of Iowans; and

(6) Present at least two letters of recommendation from universities, other educational institutions, or research facilities that indicate the applicant's noteworthy professional attainment.

b. Application. The application shall request the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution and a sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. A complete translation of any diploma not written in English shall be submitted;

(5) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(6) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(8) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.4(4) *Special license application review process.* The process below shall be utilized to review each application for a special license.

a. An application shall be considered open from the date the application form is received in the board office with the nonrefundable special licensure fee.

b. After reviewing each application, staff shall notify the applicant or the applicant's academic institution about how to resolve any problems identified by the reviewer. The applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant a special license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall administratively grant a special license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, questionable competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a special license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.4(5) *Special license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

10.4(6) *Renewal of a special license.*

a. If the special physician licensee has not qualified for and received a permanent license, the licensee must renew prior to expiration.

b. A special physician licensee may apply for a one-year renewal by submitting the following:

(1) A completed renewal application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11; and

(4) A letter from the dean of the medical college that addresses the individual's unique contribution to the practice of medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license. For a licensee who received the initial special license prior to July 1, 2001, the only statement needed from the dean is verification of the academic appointment the licensee continues to hold.

c. Failure of the licensee to renew a license within one month of the expiration date will cause the license to become inactive. A licensee whose license is inactive is prohibited from practice until a new special license is granted according to subrules 10.4(3) and 10.4(4).

653—10.5(147,148) Temporary licensure. The board may issue a temporary license authorizing a physician to participate in a board-approved activity in Iowa. Temporary licensure is granted on a case-by-case basis and depends upon the applicant's education and training, experience and licensure status elsewhere and upon the intended use of the temporary license.

10.5(1) *General provisions.*

a. The temporary license to practice is intended for a physician to participate in a board-approved activity, as defined in rule 653—10.1(147,148), in Iowa that is short-term. Temporary licensure is not intended for locum tenens.

b. The license may be restricted to the board-approved activity, location(s) or time period of up to one year.

(1) A physician who is granted a temporary license for a board-approved activity may qualify for renewal of that license if the physician needs an extension of the license for the original purpose or to pursue more than one board-approved activity within a year.

(2) A physician who wishes to continue in a board-approved activity in Iowa for short intervals beyond one year is eligible for a temporary license each year after reapplying and qualifying on an annual basis.

c. A physician incidentally called into this state in consultation with a physician and surgeon licensed in this state, as defined in rule 653—10.1(147,148), is not required to obtain a temporary license in Iowa.

d. The board may take disciplinary action on a temporary license if the licensee has practiced outside the scope of the temporary license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. Contested case proceedings shall be governed by the provisions of 653—Chapter 25.

e. A physician who holds a temporary license must notify the board of any change in address within three days of making an address change.

f. A physician who holds a temporary license must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

g. The file of a physician who holds a temporary license will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.5(2) *Temporary license eligibility.* To be eligible for a temporary license, an applicant must meet all of the following requirements:

a. Fulfill the requirements specified in subrules 10.5(3) and 10.5(4);

b. Be at least 21 years of age;

c. Hold a medical degree from an educational institution approved by the board (if the applicant is an international medical graduate, the educational institution must be listed in the International Medical Education Directory);

d. Hold a current active, unrestricted license to practice medicine issued by any jurisdiction;

e. Be fluent in the English language;

f. Present a letter justifying the need for temporary licensure from the organization or individual seeking the applicant's participation in a board-approved activity;

g. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.5(3) *Requirements for a temporary license.* To apply for a temporary license, an applicant must:

a. Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(4)*"a."* A physician who is serving as a camp physician and who is not receiving payment other than expenses shall be exempt from the license application fee and the fee for the criminal history background check.

b. Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

10.5(4) *Application.* The application shall require the following information:

a. The applicant's full legal name, date and place of birth, home address, mailing address and principal business address;

b. A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including the applicant's license number and date of issuance of the license;

c. A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

d. A statement by the applicant that discloses and explains any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical

or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

e. A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant, filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. A statement from the applicant that justifies the need for a temporary license, including where the applicant intends to practice and the type of practice involved;

h. A letter from the Iowa organization or individual seeking the applicant's services that explains the need for the applicant's participation in the board-approved activity in Iowa, the time period involved, the scope of practice, and the exact location and facilities where the board-approved activity will occur;

i. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction, a statement, which shall be submitted by the Iowa organization or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be;

j. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction:

(1) Verification, which shall be submitted from the licensing authority of the country in which the physician is licensed, that the physician has a license in good standing;

(2) Evidence of fluency in the English language;

k. For a resident physician who does not hold a current, active resident or permanent license in the home state of the resident training program, a statement, which shall be submitted by the resident director or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be; and

l. A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.5(5) *Standard application review process for a temporary license.* The standard review process shall be utilized to review each application for a temporary license, except that the process identified in subrule 10.5(6) shall be used for any international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or for any physician who seeks temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148). The standard application review process is as follows:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary licensee, staff may administratively grant a temporary license to the applicant for a specific activity, location(s) or specified duration based on the nature of the board-approved activity. The license shall not be granted for a period longer than one year.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, then the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for temporary licensure or the organization's or requesting individual's need for a licensee with a temporary license.

(1) If there is no current concern, staff shall administratively grant a temporary license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, malpractice, substance abuse,

competency, physical or mental illness, educational disciplinary history, or questionable need on the part of the organization.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to administratively grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Deny a temporary license; or

(4) Request that the applicant withdraw the temporary licensure application.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in 653—9.17(147,148).

10.5(6) *Application review process for applicants with certain exceptions.* This application process shall be used to review applications submitted by an international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or by a physician seeking temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148). Following is the application review process for applicants with exceptions:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary license, staff shall submit the application to the committee for review and recommendation to the board about whether to grant a temporary license to the physician and whether the license should be granted for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

d. The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in 653—9.17(147,148).

10.5(7) *Temporary license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant whose application is inactive must reapply and submit new nonrefundable fees and a new application, documents and credentials if the applicant wishes to pursue temporary licensure.

10.5(8) *Renewal of a temporary license.*

a. To apply for renewal of a temporary license, the licensee shall submit the following:

(1) A request for renewal;

(2) The renewal fee as specified in 653—paragraph 8.4(4)*"b"*; and

(3) Written justification for the renewal from the organization or individual seeking the applicant.

b. Failure of the licensee to renew a license by the expiration date will cause the license to become inactive. The individual shall not practice in Iowa until securing a permanent medical license or until becoming eligible for a second temporary license.

653—10.6(147,148,148J) Provisional licensure for foreign medical graduates.

10.6(1) *General provisions.*

a. The board may grant a provisional license to a foreign medical graduate who meets the qualifications provided in Iowa Code chapter 148J and these rules.

b. A provisional license may be issued for a period of not more than one year and may be renewed annually prior to expiration.

c. A provisional license will specifically limit the licensee to practice at the health care facility that provided the foreign medical graduate with the offer of employment as required by Iowa Code chapter 148J to qualify for this license.

d. The board may cancel a provisional license if the licensee has practiced outside the scope of this license, the licensee's employment is terminated with the health care facility who offered the licensee employment to qualify for the provisional license, or the licensee ceases to have an eligible immigration status for employment in the United States of America or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. When cancellation of such license is proposed, the board will promptly notify the licensee by serving a statement of charges and notice of hearing upon the licensee pursuant to 481—Chapter 506. This contested case proceeding shall be governed by the provisions of 481—Chapter 506.

e. A provisional licensee must notify the board of any change in the licensee's home address or the address of the place of practice within one month of making an address change.

f. A provisional licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

g. A provisional licensee file will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.6(2) *Provisional license eligibility.* To be eligible for a provisional license, an applicant shall meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.6(3);

b. Be at least 21 years of age;

c. Present evidence of holding a medical degree from an international medical program in good standing. This can be achieved in the following two ways:

(1) The international medical program the licensee successfully completed is approved by the ECFMG; or

(2) By presenting sufficient evidence to the board that the international medical program the applicant completed is substantially similar to the requirements of the LCME;

d. Be in good standing with and have no pending discipline before the licensing or regulatory institution in the foreign country;

e. Have practice in medicine and surgery or osteopathic medicine and surgery as a licensed physician for five years following the completion of a residency or substantially similar postgraduate medical training. The applicant can demonstrate the postgraduate medical training is substantially similar to a residency in the following two ways:

(1) The residency or postgraduate training is approved by the ACGME, AOA, RCPSC, or CFPC; or

(2) By presenting sufficient evidence to the board that the residency or postgraduate training is substantially similar to the requirements of one of the four agencies listed in subparagraph 10.6(2)*"e"*(1);

f. Demonstrate proficiency in English by providing a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service;

g. Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted;

h. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 655—subrule 9.3(3); and

i. Have a passing score in all steps of the USMLE.

10.6(3) *Provisional license application.*

a. Requirements. To apply for a provisional license, an applicant must:

(1) Pay a nonrefundable special license fee and a fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(3) *"a"*;

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all the information provided by the applicant;

(3) Provide a sworn statement from the director or the director's designee of the medical licensing or regulatory institution in the individual's resident country that the applicant's license is in good standing and is not subject to any pending discipline;

(4) Provide a certified record from the national policy agency in the individual's resident country of a complete criminal history of the applicant;

(5) Provide verification of successful completion of a medical degree;

(6) Provide a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service; and

(7) Provide a sworn statement and supporting documents from the health care facility offering employment to the provisional licensee applicant that the facility has had the applicant's immigration status reviewed by a licensed attorney of this jurisdiction and a determination was made that the applicant has proper immigration status for employment in the United States of America.

b. Application. The application shall request the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution and a sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. A complete translation of any diploma not written in English shall be submitted;

(5) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, educational institution, training or research program, or health facility in any jurisdiction;

(6) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(8) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.6(4) *Provisional license application review process.* The process below shall be utilized to review each application for a provisional license.

a. An application is considered open from the date the application form is received in the board office with the nonrefundable provisional licensure fee.

b. After reviewing each application, staff will notify the applicant or the health care facility offering the applicant employment about how to resolve any problems identified by the reviewer. The applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant a provisional license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs will determine whether the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff will administratively grant a provisional license.

(2) If any concern exists, the application will be referred to the committee.

e. Staff will refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, questionable competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to administratively grant a provisional license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

(1) Request that the applicant appear for an interview;

(2) Grant a provisional license;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license.

h. The board will consider applications and recommendations from the committee and:

(1) Request that the applicant appear for an interview;

(2) Grant a provisional license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.6(5) *Provisional license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, new documents and new credentials.

10.6(6) *Renewal of a provisional license.*

a. If the provisional licensee has not qualified for and received a permanent license, the licensee must renew prior to expiration.

b. A provisional licensee may apply for a one-year renewal by submitting the following:

(1) A completed renewal application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11; and

(4) A letter from the chief medical officer for the health care facility employing the licensee that addresses the individual's fitness to the practice of medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license.

c. Failure of the licensee to renew a license within one month of the expiration date will cause the license to become inactive. A licensee whose license is inactive is prohibited from practice until a new provisional license is granted according to subrules 10.4(3) and 10.4(4).

10.6(7) *Conversion of a provisional license to a full license.*

a. After three consecutive years of holding a provisional license in good standing, the provisional licensee may apply to have the licensee's license converted to a full license to practice medicine and surgery or osteopathic medicine and surgery, provided the license has not been revoked pursuant to Iowa Code section 148J.2. The provisional licensee may alternatively elect to continue to renew the licensee's provisional license on a yearly basis.

b. The provisional licensee shall make application to the board for conversion of the licensee's provisional license using the application form provided by the board. The application shall include the following:

(1) A completed application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11.

(4) A letter, submitted by the chief medical officer for the health care facility employing the licensee, that addresses the individual's fitness to practice medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license.

(5) An updated criminal background check as described in subrule 10.6(3).

(6) A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to the practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

(9) The full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(10) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, 148J, and 272C.

ARC 8696C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 11, "Continuing Education and Training Requirements," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 11 and adopt a new chapter with the same title. This proposed chapter sets forth continuing education requirements for physicians, acupuncturists, and genetic counselors. It includes definitions related to continuing education, the number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the chapter, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
CONTINUING EDUCATION AND TRAINING REQUIREMENTS

653—11.1(272C) Definitions.

"ABMS" means the American Board of Medical Specialties. The board recognizes specialty board certification by ABMS.

"Accredited provider" means an organization approved as a provider of category 1 credit by one of the following board-approved accrediting bodies: Accreditation Council for Continuing Medical Education, Iowa Medical Society, or the Council on Continuing Medical Education of the AOA.

"Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

"Active licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in Iowa who has met all conditions of licensure and maintains a current license to practice in Iowa.

"AMA" means the American Medical Association.

"AOA" means the American Osteopathic Association.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Approved program or credit" means any category 1 credit offered by an accredited provider or any other program or credit meeting the standards set forth in these rules.

"Board" means the board of medicine.

"Carryover" means hours of category 1 credit earned in excess of the required hours in a license period that may be applied to the continuing education requirement in the subsequent license period; carryover may not exceed 20 hours of category 1 credit per renewal cycle.

"Category 1 credit" means any formal education program that is sponsored by an accredited provider. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"Committee" means the licensure committee of the board.

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America.

"Continuing education" means education that is acquired by a licensee in order to maintain or enhance skills and knowledge present at initial licensure or to develop relevant skills and knowledge.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at or completion of an approved category 1 credit.

"Inactive license" means any license that is not a current, active license.

"Licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa.

"Opioid" means any FDA-approved product or active pharmaceutical ingredient classified as a controlled substance that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

"Service charge" means the amount charged for making a service available on line and is in addition to the actual fee for a service itself.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. The passing score on SPEX is 75.

"Training for identifying and reporting abuse" means training as described in Iowa Code section 232.69; the full requirements for reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

653—11.2(272C) Continuing education credit and alternatives.

11.2(1) Continuing education credit may be obtained by attending category 1 credits as defined in this chapter.

11.2(2) The board accepts the following as equivalent to 50 hours of category 1 credit: participation in an approved resident training program or board certification or recertification by an ABMS or AOA specialty board within the licensing period.

11.2(3) Each year, the board acknowledges up to ten hours of category 1 credits for physicians who served on the board or Iowa professional health committee, are actively serving alternate members, or performed peer reviews in the previous year. Recipients are notified by the board's executive director via mail in January.

653—11.3(272C) Continuing education and training requirements for renewal or reactivation. A licensee shall meet the requirements in this rule to qualify for renewal of a permanent license, an administrative medicine license, or special license or to qualify for reactivation of a permanent license or an administrative medicine license.

11.3(1) *Continuing education and training requirements.*

a. Continuing education for permanent license or administrative medicine license renewal. Except as provided in these rules, a total of 40 hours of category 1 credit or board-approved equivalent is required for biennial renewal of a permanent license or an administrative medicine license. This may include up to 20 hours of carryover credit.

(1) To facilitate license renewal according to birth month, a licensee's first license may be issued for less than 24 months. The number of hours of category 1 credit required of a licensee whose license has been issued for less than 24 months shall be reduced on a pro-rata basis.

(2) A licensee desiring to obtain credit for carryover hours reports the carryover, not to exceed 20 hours of category 1 credit, on the renewal application.

b. Continuing education for special license renewal. A total of 20 hours of category 1 credit shall be required for annual renewal of a special license. No carryover hours are allowed.

c. Training for identifying and reporting child and dependent adult abuse for permanent or special license renewal. A licensee shall complete the training for identifying and reporting child and dependent adult abuse as part of a category 1 credit or an approved training program. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Training to identify child abuse. A licensee who regularly provides primary health care to children in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 232.69(3)*"c"* in child abuse identification and reporting every three years. "A licensee who regularly provides primary health care to children" means all emergency physicians, family physicians, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary health care to children.

(2) Training to identify dependent adult abuse. A licensee who regularly provides primary health care to adults in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 235B.16(5)*"c"* in dependent adult abuse

identification and reporting every three years. "A licensee who regularly provides primary health care to adults" means all emergency physicians, family physicians, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists and any other physician who regularly provides primary health care to adults.

d. Training for chronic pain management for permanent or special license renewal. The licensee shall complete the training for chronic pain management as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Licensees who prescribed opioids in the prior license period must complete two hours of category 1 credit on U.S. Centers for Disease Control and Prevention (CDC) guidelines for opioid prescribing every five years. The licensee may opt out of this requirement during license renewal if the licensee did not prescribe opioids in the previous cycle.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the chronic pain management training and shall then complete the training once every five years thereafter.

e. Training for end-of-life care for permanent or special license renewal. The licensee shall complete the training for end-of-life care as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) A licensee who regularly provides direct patient care to actively dying patients in Iowa must complete at least two hours of category 1 credit for end-of-life care every five years.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the end-of-life care training and shall then complete the training once every five years thereafter.

11.3(2) *Exemptions from renewal requirements.*

a. A licensee shall be exempt from the continuing education requirements in subrule 11.3(1) when, upon license renewal, the licensee provides evidence for:

(1) Periods that the licensee served honorably on active duty in the U.S. armed forces, reserves or national guard;

(2) Periods that the licensee practiced in another state or district and did not provide medical care, including telemedicine services, to patients located in Iowa if the other state or district had continuing education requirements for the profession and the licensee met all requirements of that state or district for practice therein;

(3) Periods that the licensee was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

(4) Other periods of active practice and absence from the state approved by the board.

b. The requirements for training on chronic pain management and end-of-life care for license renewal shall be suspended for a licensee who provides evidence for:

(1) Periods described in subparagraph 11.3(2)*"a"*(1), (2), (3), or (4); or

(2) Periods that the licensee resided outside of Iowa and did not practice in Iowa.

11.3(3) *Extension for completion of or exemption from renewal requirements.* The board may grant an extension of time for or an exemption from completion of the renewal requirements in subrule 11.3(1) in cases of physical disability or illness.

a. A licensee requesting an extension or exemption shall complete and submit a request to the board that sets forth the reasons for the request and has been signed by the licensee and attending physician.

b. The board may grant an extension of time to fulfill the requirements in subrule 11.3(1).

c. The board may grant an exemption from the educational requirements for any period of time not to exceed one calendar year.

d. If the physical disability or illness for which an extension or exemption was granted continues beyond the period of waiver, the licensee must reapply for a continuance of the extension or exemption.

e. The board may, as a condition of any extension or exemption granted, require the applicant to make up a portion of the continuing education requirement by methods it prescribes.

11.3(4) *Reactivation requirement.* An applicant for license reactivation whose license has been inactive for one year or more shall provide proof of successful completion of 40 hours of category 1 credit completed within 24 months prior to submission of the application for reactivation or proof of successful completion of SPEX or COMVEX-USA within one year immediately prior to the submission of the application for reinstatement.

11.3(5) *Cost of continuing education and training for renewal or reinstatement.* Each licensee is responsible for all costs of continuing education and training required in 653—Chapter 11.

11.3(6) *Documentation.* A licensee shall maintain documentation of the continuing education and training, including dates, subjects, duration of programs, and proof of participation.

11.3(7) *Audits.* The board may audit continuing education and training documentation at any time. A licensee shall respond to a board audit and provide all materials requested within 30 days of a request made by board staff.

11.3(8) *Grounds for discipline.* A licensee may be subject to disciplinary action for failure to comply with continuing education and training requirements in 653—Chapter 11.

653—11.4(272C) Failure to fulfill requirements for continuing education and training for identifying and reporting abuse.

11.4(1) Disagreement over whether material submitted fulfills the requirements specified in rule 653—11.3(272C).

a. Staff will work with a licensee or applicant to resolve any discrepancy concerning credit for renewal or reinstatement.

b. When resolution is not possible, staff will refer the matter to the committee.

(1) In the matter of a licensee seeking license renewal, staff will renew the license if all other matters are in order and inform the licensee that the matter is being referred to the committee.

(2) In the matter of an applicant seeking reactivation, staff will reactivate the license if all other matters are in order and inform the applicant that the matter is being referred to the committee.

c. The committee considers the staff's recommendation for denial of credit for continuing education or training for identifying and reporting abuse, chronic pain management, and end-of-life care.

(1) If the committee approves the credit, it will authorize the staff to inform the licensee or applicant that the matter is resolved.

(2) If the committee disapproves the credit, it will refer the matter to the board with a recommendation for resolution.

d. The board will consider the committee's recommendations.

(1) If the board approves the credit, it will authorize the staff to notify the licensee or applicant for reinstatement if all other matters are in order.

(2) If the board denies the credit, it will:

1. Close the case;
2. Send the licensee or applicant an informal, nonpublic letter of warning or education; or
3. File a statement of charges for noncompliance with the board's rules on continuing education or training and for any other violations that may exist.

11.4(2) Informal appearance for failure to complete requirements for continuing education or training.

a. The licensee or applicant may, within ten days after the date that the notification of the denial was sent by certified mail, request an informal appearance before the board.

b. At the informal appearance, the licensee or applicant will have the opportunity to present information, and the board will issue a written decision.

These rules are intended to implement Iowa Code chapters 147 and 272C and sections 232.69 and 235B.16.

ARC 8701C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to standards and principles and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 124, 124E, 135, 135L, 144E, 146A, 146E, 147, 148, 272C and 280.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 124, 124E, 135, 135L, 144E, 146A, 146E, 147, 148, 272C and 280.

Purpose and Summary

This rulemaking proposes to rescind Chapter 13 and adopt a new chapter with the same title. This rulemaking provides Iowans, licensees, and employers with the standards of practice and medical ethics. This chapter provides definitions relevant to the practice of medicine and guidelines on office practices, including the requirements for recordkeeping, physician behavior, and patient-physician relationships. The Board added provisions for emergency medical services within the physician's scope of practice pursuant to 2024 Iowa Acts, House File 2507.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
STANDARDS OF PRACTICE AND PRINCIPLES OF MEDICAL ETHICS

653—13.1(148,272C) Standards of practice—packaging, labeling and records of prescription drugs dispensed by a physician.

13.1(1) A physician shall dispense a prescription drug only in a container that meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. Sections 1471-1476 (2001), unless otherwise requested by the patient, and of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq. (2001).

13.1(2) A label affixed to a container in which a prescription drug is dispensed by a physician shall include:

a. The name and address of the physician.

b. The name of the patient.

c. The date dispensed.

d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician.

e. The name and strength of the prescription drug in the container.

13.1(3) The provisions of subrules 13.1(1) and 13.1(2) shall not apply to packaged drug samples.

13.1(4) Physicians must document all prescription drugs dispensed to patients, including required label information. Noting such information on the patient's chart or record maintained by the physician is sufficient.

653—13.2(124,148,272C) Standards of practice—appropriate pain management.

13.2(1) *Standards.* This rule establishes standards of practice for the management of acute and chronic pain. The board encourages the use of nonopioid pharmacologic therapy and nonpharmacologic therapy.

a. This rule is intended to encourage appropriate pain management, including the use of opioids for the treatment of pain, while stressing the need to establish safeguards to minimize the potential for substance abuse and drug diversion.

b. The goal of pain management is to treat each patient's pain in relation to the patient's overall health. At the end of life, the goals may shift to palliative care.

c. Pain management is an important part of medical practice. Unmanaged or inappropriately treated pain impacts patients' quality of life, reduces patients' ability to be productive members of society, and increases patients' use of health care services.

d. Physicians treating pain with opioids in a manner consistent with appropriate pain management practices should not fear board action. Dosage is not the sole measure of determining whether a physician has complied with appropriate pain management practices. The board recognizes the complexity of treating patients with chronic pain or a substance abuse history. Generally, the board is concerned about a pattern of improper pain management or a single occurrence of willful or gross overtreatment or undertreatment of pain.

e. Inappropriate pain management is a departure from the acceptable standard of practice in Iowa and may be grounds for disciplinary action.

13.2(2) *Definitions.* For the purposes of this rule, the following terms are defined as follows:

"Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal or mechanical stimulus and typically is associated with invasive procedures, trauma and disease. Generally, acute pain is self-limited, lasting no more than a few weeks following the initial stimulus.

"Addiction" means a primary, chronic, neurobiologic disease, with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include the following: impaired control over drug use, craving, compulsive use, and continued use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and are not the same as addiction.

"Chronic pain" means pain that lasts longer than three months or past the time of normal tissue healing.

"Pain" means an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage. Pain is an individual, multifactorial experience influenced by culture, previous pain events, beliefs, mood and ability to cope.

"Physical dependence" means a state of adaptation that is manifested by drug class-specific signs and symptoms that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, or administration of an antagonist. Physical dependence, by itself, does not equate with addiction.

"Pseudoaddiction" means an iatrogenic syndrome resulting from the misinterpretation of relief-seeking behaviors as though they are drug-seeking behaviors that are commonly seen with addiction. The relief-seeking behaviors resolve upon institution of effective analgesic therapy.

"Substance abuse" means the use of a drug, including alcohol, by the patient in an inappropriate manner that may cause harm to the patient or others, or the use of a drug for an indication other than that intended by the prescribing clinician. An abuser may or may not be physically dependent on or addicted to the drug.

"Tolerance" means a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce a specific effect, or a reduced effect is observed with a constant dose over time. Tolerance may or may not be evident during opioid treatment and does not equate with addiction.

"Undertreatment of pain" means the failure to properly assess, treat and manage pain or the failure to appropriately document a sound rationale for not treating pain.

13.2(3) *Laws and regulations.* Nothing in this rule relieves a physician from fully complying with applicable federal and state laws and regulations.

13.2(4) *Undertreatment of pain.* The undertreatment of pain is a departure from the acceptable standard of practice in Iowa. Undertreatment may include a failure to recognize symptoms and signs of pain, a failure to treat pain within a reasonable amount of time, a failure to allow interventions, e.g., analgesia, to become effective before invasive steps are taken, a failure to address pain needs in patients with reduced cognitive status, a failure to use opioids for terminal pain due to the physician's concern with addicting the patient, or a failure to use an adequate level of pain management.

13.2(5) *Assessment and treatment of acute and chronic pain.* Appropriate assessment of the etiology of the pain is essential to the appropriate treatment of acute and chronic pain.

a. Prescribing opioids for the treatment of acute and chronic pain should only be accomplished within an established physician-patient relationship and should be based on clearly diagnosed and documented pain. Appropriate management of acute and chronic pain should include an assessment of the mechanism, type and intensity of pain. The patient's medical record should clearly document a medical history, a pain history, a clinical examination, a medical diagnosis and a treatment plan.

b. A physician who prescribes, dispenses or administers opioids to patients for the treatment of chronic pain should become familiar with the U.S. Centers for Disease Control and Prevention (CDC) Guideline for Prescribing Opioids for Chronic Pain published on March 15, 2016.

13.2(6) *Effective management of chronic pain.* To ensure that chronic pain is properly assessed and treated, a physician who prescribes, dispenses or administers opioids to a patient for the treatment of chronic pain shall exercise sound clinical judgment and establish an effective pain management plan in accordance with the following:

a. Patient evaluation. Prior to the patient starting treatment, a patient evaluation must be conducted that includes a physical examination, a comprehensive medical history, pain assessment, and examination of physical and psychological function. This evaluation should also cover diagnostic studies, past interventions, medication and substance abuse history, and any underlying conditions. Depending on the complexity of the case and the physician's expertise, consultation or referral to specialists in pain medicine, addiction medicine, or areas associated with the patient's pain may be necessary. Interdisciplinary evaluation is recommended.

b. Treatment plan. The physician must create a tailored treatment plan addressing the patient's individual needs, outlining treatment objectives such as pain relief or improved functioning, and indicating any planned diagnostic evaluations or treatments. The plan should include other treatment modalities and rehabilitation programs used. Short- and long-term pain relief needs should be considered, along with the patient's ability to request pain relief and the patient's setting. Whenever possible, opioids should be prescribed by one physician and filled at one pharmacy.

c. Informed consent. A discussion of the risks and benefits of opioids with the patient or person representing the patient must be documented.

d. Periodic review. The physician must regularly review the patient's drug treatment course and pain source. Drug therapy should be adjusted to meet individual patient needs, based on progress toward treatment plan objectives. If reviews show treatment plan objectives are not being met or indicate diversion or substance abuse patterns, the physician should reconsider drug therapy and explore other treatment options. Long-term opioid use may lead to tolerance and abnormal pain sensitivity, meaning increasing doses may not improve pain control or function.

e. Consultation/referral. A specialty consultation, including with a physician with expertise in addiction medicine or substance abuse counseling, may be considered if there is evidence of significant adverse effects, lack of response to the medication, diversion, or a pattern of substance abuse. The board encourages a multidisciplinary approach to chronic pain management.

f. Documentation. The physician shall keep accurate, timely, and complete records that detail compliance with this subrule, including patient evaluation, diagnostic studies, treatment modalities, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.

g. Pain management agreements. Physicians treating chronic pain with opioids should consider implementing a pain management agreement with each patient outlining medication use rules and consequences for misuse. The decision to use such an agreement should be based on individual patient

evaluation, weighing risks and benefits of long-term opioid treatment. If opioid treatment exceeds 90 days for chronic pain, and there is a concern for drug abuse or diversion, a pain management agreement should be used. If a physician opts not to use a pain management agreement, reasons should be documented in the patient's medical records. Pain management agreements are not required for hospice or nursing home patients.

h. Substance abuse history or comorbid psychiatric disorder. A patient's prior history of substance abuse does not necessarily contraindicate appropriate pain management. However, treatment of patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care and communication with the patient, monitoring, documentation, and consultation with or referral to an expert in the management of such patients. The board strongly encourages a multidisciplinary approach for pain management of such patients that incorporates the expertise of other health care professionals.

i. Drug testing. A physician who prescribes opioids to a patient for more than 90 days for the treatment of chronic pain should consider utilizing drug testing to ensure that the patient is receiving appropriate therapeutic levels of prescribed medications or if the physician has reason to believe that the patient is at risk of drug abuse or diversion.

j. Termination of care. The physician should consider termination of patient care if there is evidence of noncompliance with the rules for medication use, drug diversion, or a repeated pattern of substance abuse.

13.2(7) *Pain management for terminal illness.* The provisions of this subrule apply to patients who are at the stage in the progression of cancer or other terminal illness when the goal of pain management is comfort care. When the goal of treatment shifts to comfort care rather than cure of the underlying condition, the board recognizes that the dosage level of opioids to control pain may exceed dosages recommended for chronic pain and may come at the expense of patient function. The determination of such pain management should involve the patient, if possible, and others the patient has designated for assisting in end-of-life care.

13.2(8) *Prescription monitoring program.* The board of pharmacy established a prescription monitoring program pursuant to Iowa Code sections 124.551 through 124.558 to help prescribers and pharmacists track controlled substance prescriptions. Physicians must register for this program when applying for or renewing their controlled substance prescribing registration. Before prescribing opioids, physicians or their agents must use the program to guide treatment decisions and enhance patient care quality. However, utilization is not required for patients in inpatient hospice care or long-term residential facilities. Orders in hospital settings are not considered prescriptions under these rules, as patient safety is managed within these settings.

13.2(9) *Electronic prescriptions.* Beginning January 1, 2020, all prescriptions (controlled and noncontrolled substances) are to be transmitted electronically as electronic prescriptions pursuant to Iowa Code section 124.308. A prescription shall be transmitted to a pharmacy by the physician or the physician's authorized agent in compliance with federal law and regulation for electronic prescriptions of controlled substances.

13.2(10) *Pain management resources.* The board strongly recommends that physicians consult the following resources regarding the proper treatment of chronic pain. This list is provided for the convenience of licensees, and the publications included are not intended to be incorporated in the rule by reference.

a. American Academy of Hospice and Palliative Medicine or AAHPM is the American Medical Association-recognized specialty society of physicians who practice in hospice and palliative medicine in the United States. The mission of the AAHPM is to enhance the treatment of pain at the end of life.

b. American Academy of Pain Medicine or AAPM is the American Medical Association-recognized specialty society of physicians who practice pain medicine in the United States. The mission of the AAPM is to enhance pain medicine practice by promoting a climate conducive to the effective and efficient practice of pain medicine.

c. American Pain Society or APS is the national chapter of the International Association for the Study of Pain, an organization composed of physicians, nurses, psychologists, scientists and other

professionals who have an interest in the study and treatment of pain. The mission of the APS is to serve people in pain by advancing research, education, treatment and professional practice.

d. DEA Policy Statement: Dispensing Controlled Substances for the Treatment of Pain. On August 28, 2006, the Drug Enforcement Agency (DEA) issued a policy statement establishing guidelines for practitioners who dispense controlled substances for the treatment of pain. This policy statement may be helpful to practitioners who treat pain with controlled substances.

e. Interagency Guideline on Prescribing Opioids for Pain. Developed by the Washington State Agency Medical Directors' Group in collaboration with an expert advisory panel, actively practicing providers and public stakeholders, the guideline focuses on evidence-based treatment for chronic-pain patients. The guideline was published in 2007 and updated in 2015.

f. Responsible Opioid Prescribing: A Physician's Guide. In 2007, in collaboration with author Scott Fishman, M.D., the Federation of State Medical Boards' (FSMB's) Research and Education Foundation published a book on responsible opioid prescribing based on the FSMB Model Policy for the Use of Controlled Substances for the Treatment of Pain.

g. World Health Organization: Pain Relief Ladder. Cancer pain relief and palliative care. Technical report series 804. Geneva: World Health Organization.

h. CDC Guideline for Prescribing Opioids for Chronic Pain as referenced in paragraph 13.2(4) *"b."*

13.2(11) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules, the rules found in 653—Chapter 23, or any of the following:

a. A physician who prescribes opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent physician in the state of Iowa acting in the same or similar circumstances.

b. A physician who knowingly fails to comply with the confidentiality requirements of Iowa Code section 124.553 or who delegates program information access to another individual except as provided in Iowa Code section 124.553.

c. A physician who knowingly fails to comply with other requirements of Iowa Code chapter 124.

13.2(12) *Unlawful access, disclosure, or use of information.* A person who intentionally or knowingly accesses, uses, or discloses information from the prescription monitoring program in violation of Iowa Code section 124.553, unless otherwise authorized by law, is guilty of a class "D" felony. This subrule shall not preclude a physician who requests and receives information from the prescription monitoring program consistent with the requirements of Iowa Code section 124.553 from otherwise lawfully providing that information to any other person for medical care purposes.

653—13.3(147,148) Standards of practice—chelation therapy. Chelation therapy or disodium ethylene diamine tetra acetic acid (EDTA) may only be used for the treatment of heavy metal poisoning or in the clinical setting when a licensee experienced in clinical investigations conducts a carefully controlled clinical investigation of its effectiveness in treating other diseases or medical conditions under a research protocol that has been approved by an institutional review board of the University of Iowa or Des Moines University—Osteopathic Medical Center.

653—13.4(79GA,HF726) Standards of practice—automated dispensing systems. A physician who dispenses prescription drugs via an automated dispensing system or a dispensing system that employs technology may delegate nonjudgmental dispensing functions to staff assistants in the absence of a pharmacist or physician provided that the physician utilizes an internal quality control assurance plan that ensures that the medication dispensed is the medication that was prescribed. The physician must be physically present to determine the accuracy and completeness of any medication that is reconstituted prior to dispensing.

13.4(1) An internal quality control assurance plan shall include the following elements:

a. The name of the physician responsible for the plan and testing;

b. Methods that the dispensing system employs to ensure the accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;

c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;

d. The procedures utilized to ensure that the physician(s) dispensing via the automated system provide(s) patients counseling regarding the prescription drugs being dispensed;

e. Staff training and qualifications for dispensing via the dispensing system;

f. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;

g. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;

h. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;

i. A plan for interval testing of the accuracy of dispensing, at least annually; and

j. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

13.4(2) Those dispensing systems already in place shall show evidence of a plan and testing within two months of August 31, 2001.

13.4(3) The internal quality control assurance plan shall be submitted to the board of medicine upon request.

653—13.5(147,148,272C) Standards of practice—office practices.

13.5(1) *Termination of the physician-patient relationship.* A physician may choose whom to serve. Having undertaken the care of a patient, the physician may not neglect the patient. A physician must provide a patient written notice of the termination of the physician-patient relationship. A physician shall ensure that emergency medical care is available to the patient during the 30-day period following notice of the termination of the physician-patient relationship.

13.5(2) *Patient referrals.* A physician shall not pay or receive compensation for patient referrals.

13.5(3) *Confidentiality.* A physician shall maintain the confidentiality of all patient information obtained in the practice of medicine. Information shall be divulged by the physician when authorized by law or the patient or when required for patient care.

13.5(4) *Sexual conduct.* It is unprofessional and unethical conduct, and is grounds for disciplinary action, for a physician to engage in conduct that violates the following prohibitions:

a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient, or with the patient's parent or guardian if the patient is a minor or under a guardianship.

b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor or under guardianship, regardless of whether the patient consents to that conduct.

13.5(5) *Disruptive behavior.* A physician shall not engage in disruptive behavior. Disruptive behavior is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff.

13.5(6) *Sexual harassment.* A physician shall not engage in sexual harassment. Sexual harassment is defined as verbal or physical conduct of a sexual nature that interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

13.5(7) *Transfer of medical records.* A physician must provide a copy of all medical records generated by the physician in a timely manner to the patient or another physician designated by the patient, upon written request when legally requested to do so by the subject patient or by a legally designated representative of the subject patient, except as otherwise required or permitted by law.

13.5(8) *Retention of medical records.*

a. A physician shall retain all medical records, not appropriately transferred to another physician or entity, for at least seven years from the last date of service for each patient, except as otherwise required by law.

b. A physician must retain all medical records of minor patients, not appropriately transferred to another physician or entity, for a period consistent with that established by Iowa Code section 614.8.

c. Beginning July 1, 2023, a physician must appoint another Iowa-licensed physician, or other representative or entity that is held to the same standards of confidentiality as the physician, to ensure that all requirements of this subrule are met in the event of the physician's death or incapacitation. Upon request by the board, the physician must be able to establish by sufficient proof the appointment of a representative pursuant to this paragraph.

d. Upon a physician's death or retirement, the sale of a medical practice, or a physician's departure from the physician's medical practice:

(1) The physician or the physician's representative must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The physician or the physician's representative shall notify all active patients that their records will be transferred to another physician or entity that will retain custody of their records and that, at their written request, the records will be sent to the physician or entity of the patient's choice.

653—13.6(148,272C) Standards of practice—medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians. This rule establishes standards of practice for a physician or surgeon or osteopathic physician or surgeon who serves as a medical director at a medical spa. This rule does not apply to the standards of practice for a nonphysician licensed health professional who serves as a medical director at a medical spa pursuant to the rules of the professional's licensing authority.

13.6(1) *Definitions.* As used in this rule:

"Alter" means to change the cellular structure of living tissue.

"Capable of" means any means, method, device or instrument that, if used as intended or otherwise to its greatest strength, has the potential to alter or damage living tissue below the superficial epidermal cells.

"Damage" means to cause a harmful change in the cellular structure of living tissue.

"Delegate" means to entrust or transfer the performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians.

"Medical aesthetic service" means the diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities of the skin, hair, nails and mucous membranes by any means, methods, devices, or instruments including the use of a biological or synthetic material, chemical application, mechanical device, or displaced energy form of any kind if it alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells, with the exception of hair removal. Medical aesthetic service includes, but is not limited to, the following services: ablative laser therapy; vaporizing laser therapy; nonsuperficial light device therapy; injectables; tissue alteration services; nonsuperficial light-emitting diode therapy; nonsuperficial intense pulse light therapy; nonsuperficial radiofrequency therapy; nonsuperficial ultrasonic therapy; nonsuperficial exfoliation; nonsuperficial microdermabrasion; nonsuperficial dermaplane exfoliation; nonsuperficial lymphatic

drainage; collagen induction therapy (microneedling); fat-freezing treatment (cool sculpting); botox injections; collagen injections; and tattoo removal.

"Medical director" means a physician who assumes the role of, or holds oneself out as, medical director at a medical spa. The medical director is responsible for implementing policies and procedures to ensure quality patient care and for the delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa. The medical director is ultimately responsible for all medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa.

"Medical spa" means any entity, however organized, that is advertised, announced, established, or maintained for the purpose of providing medical aesthetic services. Medical spa shall not include a dermatology practice that is wholly owned and controlled by one or more Iowa-licensed physicians if at least one of the owners is actively practicing at each location.

"Nonsuperficial" means that the therapy alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells.

"Qualified laser technician" means any person, licensed or unlicensed, who has successfully completed a minimum of 120 hours of training, including a minimum of 40 hours of didactic study and 80 hours of clinical training, in the safe and effective use of lasers in the performance of medical aesthetic services at an accredited laser training program. For the purposes of this rule, a qualified laser technician may only use lasers in the performance of delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa. An unlicensed qualified laser technician may not perform any other medical aesthetic services defined in this rule.

"Qualified licensed or certified nonphysician person" means any person who is not licensed to practice medicine and surgery or osteopathic medicine and surgery but who is licensed or certified by another health- or skin care-related licensing board in Iowa and is qualified to perform delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa.

"Supervision" means the oversight of qualified licensed or certified nonphysician persons or qualified laser technicians who perform medical aesthetic services delegated by a medical director.

13.6(2) *Delegation by a medical director.* A medical aesthetic service shall only be performed by qualified licensed or certified nonphysician persons or qualified laser technicians if the service has been delegated by a medical director who is responsible for supervision of the services performed at a medical spa in Iowa. Nothing in this rule shall be interpreted to prevent a qualified nonphysician licensed health professional from serving as a medical director at a medical spa or from appropriately delegating medical aesthetic services pursuant to the rules of the professional's licensing authority.

13.6(3) *Medical director.* A medical director at a medical spa shall:

a. Hold an active unrestricted Iowa medical license to supervise each delegated medical aesthetic service;

b. Possess the appropriate education, training, experience and competence to safely supervise each delegated medical aesthetic service;

c. Retain responsibility for the supervision of each medical aesthetic service performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

d. Ensure that advertising activities do not include false, misleading, or deceptive representations; and

e. Be clearly identified as the medical director in all advertising activities, Internet websites and signage related to the medical spa.

13.6(4) *Delegated medical aesthetic service.* When a medical director delegates a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians, the service shall be:

a. Within the medical director's scope of practice and medical competence to supervise;

b. Of the type that a reasonable and prudent physician would conclude is within the scope of sound medical judgment to delegate; and

c. A routine and technical service, the performance of which does not require the skill of a licensed physician.

13.6(5) *Supervision.* A medical director who delegates performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians is responsible for providing appropriate supervision. The medical director shall:

a. Ensure that all licensed or certified nonphysician persons or qualified laser technicians are qualified and competent to safely perform each delegated medical aesthetic service by personally assessing the person's education, training, experience and ability;

b. Ensure that a qualified licensed or certified nonphysician person does not perform any medical aesthetic services that are beyond the scope of that person's license or certification unless the person is supervised by a qualified supervising physician or other qualified supervising nonphysician licensed health professional;

c. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians receive direct, in-person, on-site supervision from the medical director or other qualified licensed physician or other qualified supervising nonphysician licensed health professional at least four hours each week and that the regular supervision is documented;

d. Provide on-site review of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians each week and review at least 10 percent of patient charts for medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

e. Be physically located, at all times, within 60 miles of the location where delegated medical aesthetic services are performed;

f. Be available, in person or electronically, at all times, to consult with qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services, particularly in case of injury or an emergency;

g. Assess the legitimacy and safety of all equipment or other technologies being used by qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services;

h. Develop and implement protocols for responding to emergencies or other injuries suffered by persons receiving delegated medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

i. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians maintain accurate and timely medical records for the delegated medical aesthetic services they perform;

j. Ensure that each patient provides appropriate informed consent for medical aesthetic services performed by the medical director or other qualified licensed physician and all qualified licensed or certified nonphysician persons or qualified laser technicians and that such informed consent is timely documented in the patient's medical record;

k. Ensure that the identity and licensure and certification of the medical director, other qualified licensed physicians, and all qualified licensed or certified nonphysician persons or qualified laser technicians are visibly displayed at each medical spa where they perform medical aesthetic services and provided in writing to each patient receiving medical aesthetic services at a medical spa; and

l. Ensure that the board receives written verification of the education and training of all qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services at a medical spa, within 14 days of a request by the board.

13.6(6) *Continuing medical education.* A medical director shall complete and shall ensure that all other physicians, qualified licensed or certified nonphysician persons, and qualified laser technicians who practice at the medical spa complete a minimum of 20 hours of continuing medical education in the safe and effective performance of medical aesthetic services each year.

13.6(7) *Exceptions.* This rule is not intended to apply to physicians who serve as medical directors of licensed medical facilities, clinics or practices that provide medical aesthetic services as part of or incident to their other medical services.

13.6(8) *Other qualified nonphysician licensed health professionals.* Nothing in this rule shall be interpreted to contradict or supersede the rules established in 481—Chapters 617, 621, 780 and 781.

653—13.7(147,148,272C) Standards of practice—interventional chronic pain management. This rule establishes standards of practice for the practice of interventional chronic pain management. The purpose of this rule is to assist physicians who consider interventional techniques to treat patients with chronic pain.

13.7(1) *Definition.* As used in this rule:

"Interventional chronic pain management" means diagnosing and treating pain-related disorders using interventional techniques for subacute, chronic, persistent, and intractable pain. These techniques include percutaneous needle placement for drug injection, nerve ablation, and certain surgeries. Common procedures involve injecting steroids, analgesic, and anesthetics into targeted areas such as the spine, joints, or nerves. This may include lumbar, thoracic, and cervical spine injections; nerve blocks; and processes like vertebroplasty. Fluoroscopy is used to assess chronic pain causes or aid in identifying anatomical landmarks during these techniques. Specific procedures include joint injections, nerve blocks, epidural injections, and nerve destruction.

13.7(2) *Interventional chronic pain management.* The practice of interventional chronic pain management shall include the following:

a. Comprehensive assessment of the patient;
b. Diagnosis of the cause of the patient's pain;
c. Evaluation of alternative treatment options;
d. Selection of appropriate treatment options;
e. Termination of prescribed treatment options when appropriate;
f. Follow-up care; and
g. Collaboration with other health care providers.

13.7(3) *Practice of medicine.* Interventional chronic pain management is the practice of medicine.

653—13.8(147,148,272C) Standards of practice—physicians who prescribe or administer abortion-inducing drugs.

13.8(1) *Definition.* As used in this rule:

"Abortion-inducing drug" means a drug, medicine, mixture, or preparation, when it is prescribed or administered with the intent to terminate the pregnancy of a woman known to be pregnant.

13.8(2) *Review of patient record.* A physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first reviewed the lab results, ultrasound images, and medical history provided by the patient to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. A physician may utilize telemedicine pursuant to rule 653—13.9(147,148,272C).

13.8(3) *Follow-up appointment required.* If an abortion is induced by an abortion-inducing drug, the physician or designee shall use all reasonable efforts to ensure a follow-up appointment is scheduled with the patient at the same facility within 12 to 18 days after the patient's use of an abortion-inducing drug to confirm the termination of the pregnancy and evaluate the woman's medical condition.

13.8(4) *Parental notification regarding pregnant minors.* A physician shall not induce an abortion by providing an abortion-inducing drug to a pregnant minor prior to compliance with the requirements of Iowa Code chapter 135L and rules 641—89.12(135L) and 641—89.21(135L).

653—13.9(147,148,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the practice of medicine using telemedicine.

13.9(1) *Definitions.* As used in this rule:

"Asynchronous store-and-forward transmission" means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

"Board" means the Iowa board of medicine.

"In-person encounter" means that the physician and the patient are in the physical presence of each other and are in the same physical location during the physician-patient encounter.

"Licensee" means a medical physician or osteopathic physician licensed by the board.

"Telemedicine" means the practice of medicine using electronic audio-visual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine shall not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

"Telemedicine technologies" means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

13.9(2) *Practice guidelines.* A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

13.9(3) *Iowa medical license required.* A physician who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa medical license consistent with state and federal laws. Nothing in this rule shall be construed to supersede the exceptions to licensure contained in 653—subrule 9.2(2).

13.9(4) *Standards of care and professional ethics.* A licensee who uses telemedicine is held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

13.9(5) *Scope of practice.* A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, ability, licensure, and certification.

13.9(6) *Identification of patient and physician.* A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

13.9(7) *Physician-patient relationship.*

a. A licensee who uses telemedicine shall establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:

(1) The person with a health-related matter seeks assistance from a licensee;

(2) The licensee agrees to undertake diagnosis and treatment of the person; and

(3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician and the person.

b. A valid physician-patient relationship may be established by:

(1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;

(2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or

(3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

13.9(8) *Medical history and physical examination.* Generally, a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in-person if the technology utilized in a telemedicine encounter is

sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in-person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

13.9(9) *Nonphysician health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a nonphysician health care provider, the licensee shall:

a. Ensure that systems are in place to ensure that the nonphysician health care provider is qualified and trained to provide that service within the scope of the nonphysician health care provider's practice;

b. Ensure that the licensee is available in person or electronically to consult with the nonphysician health care provider, particularly in the case of injury or an emergency.

13.9(10) *Informed consent.* A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

13.9(11) *Coordination of care.* A licensee who uses telemedicine shall, when medically appropriate, identify the medical home or treating physician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating physician(s).

13.9(12) *Follow-up care.* A licensee who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

13.9(13) *Emergency services.* A licensee who uses telemedicine shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

13.9(14) *Medical records.* A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

13.9(15) *Privacy and security.* A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 16, 2024, to ensure that all patient communications and records are secure and remain confidential.

a. Written protocols shall be established that address the following:

(1) Privacy;

(2) Health care personnel who will process messages;

(3) Hours of operation;

(4) Types of transactions that will be permitted electronically;

(5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;

(6) Archiving and retrieval; and

(7) Quality oversight mechanisms.

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

13.9(16) *Technology and equipment.* The board recognizes that three broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

a. Comply with relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. Be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. Be compliant with the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 16, 2024.

13.9(17) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine shall ensure that the following information is clearly disclosed to the patient:

a. Types of services provided;

b. Contact information for the licensee;

c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;

d. Limitations in the drugs and services that can be provided via telemedicine;

e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;

f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);

g. Appropriate uses and limitations of the technologies, including in emergency situations;

h. Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;

i. To whom patient health information may be disclosed and for what purpose;

j. Rights of patients with respect to patient health information; and

k. Information collected and passive tracking mechanisms utilized.

13.9(18) *Patient access and feedback.* A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

a. To access, supplement and amend patient-provided personal health information;

b. To provide feedback regarding the quality of the telemedicine services provided; and

c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

13.9(19) *Financial interests.* Advertising or promotion of goods or products from which the licensee(s) receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee(s) should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

13.9(20) *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.* Under the following circumstances, whether or not such circumstances

involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;

b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;

c. Call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

d. Cross-coverage situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

e. Situations in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship;

f. Emergency situations in which the life or health of the patient is in imminent danger;

g. Emergency situations that constitute an immediate threat to the public health including but not limited to empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

h. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and

i. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities and hospice settings.

13.9(21) *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.* Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 13.9(20).

653—13.10(135,147,148,272C,280) Standards of practice—prescribing epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility.

13.10(1) Definition. For purposes of this rule:

"Authorized facility" means a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

13.10(2) Notwithstanding any other provision of law to the contrary, a physician may prescribe epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16 and 280.16A.

13.10(3) A physician who prescribes epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16 and 280.16A, provided the physician has acted reasonably and in good faith, is not liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists.

653—13.11(144E,147,148,272C) Standards of practice—experimental treatments for patients with a terminal illness.

13.11(1) *Exemption from discipline.* To the extent consistent with state law, the board will not revoke, fail to renew, suspend, or take any action against a physician's license based solely on the

physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.

13.11(2) *Eligible patient.* A physician shall ensure that a patient meets all of the following conditions prior to the use of an investigational drug, biological product, or device pursuant to this rule:

a. The patient has a terminal illness, attested to by the patient's treating physician.

b. The patient has considered and rejected or has tried and failed to respond to all other treatment options approved by the U.S. Food and Drug Administration (FDA).

c. The patient has received a recommendation from the patient's physician for an investigational drug, biological product, or device.

d. The patient has given written informed consent for the use of the investigational drug, biological product, or device.

e. The patient has documentation from the patient's physician that the patient meets the requirements of this rule.

13.11(3) *Investigational drug, biological product, or device.* A physician may recommend access to or treatment with an investigational drug, biological product, or device that has successfully completed phase 1 of an FDA-approved clinical trial but has not yet been approved for general use by the FDA and remains under investigation in an FDA-approved clinical trial.

13.11(4) *Terminal illness.* A physician shall ensure that a patient has a terminal illness prior to the use of an investigational drug, biological product, or device pursuant to this rule. A terminal illness is a progressive disease or medical or surgical condition that entails significant functional impairment and that is not considered by a treating physician to be reversible even with administration of treatments approved by the FDA and that, without life-sustaining procedures, will result in death.

13.11(5) *Written informed consent.* A physician shall obtain written informed consent prior to the use of an investigational drug, biological product, or device pursuant to this rule. Written informed consent is a written document that is signed by a patient, a parent of a minor patient, or a legal guardian or other legal representative of the patient and attested to by the patient's treating physician and a witness and that includes all of the following:

a. An explanation of the products and treatments approved by the FDA for the disease or condition from which the patient suffers.

b. An attestation that the patient concurs with the patient's treating physician in believing that all products and treatments approved by the FDA are unlikely to prolong the patient's life.

c. Clear identification of the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

d. A description of the best and worst potential outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description to include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by use of the proposed investigational drug, biological product, or device. The description is based on the treating physician's knowledge of the proposed investigational drug, biological product, or device in conjunction with an awareness of the patient's condition.

e. A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device, unless the patient's health plan or third-party administrator and provider are specifically required to do so by law or contract.

f. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if treatment ends and the patient meets hospice eligibility requirements.

g. A statement that the patient understands that the patient is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

13.11(6) *Assisting suicide.* This rule is not to be construed to allow a patient's treating physician to assist the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

13.11(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of this rule or 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician recommends access to or treatment with an investigational drug, biological product, or device to an individual who is not an eligible patient pursuant to this rule.

b. The physician fails to obtain appropriate written informed consent prior to recommending access to or treatment with an investigational drug, biological product, or device pursuant to this rule.

c. The physician assists the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

653—13.12(147,148,272C) Standards of practice—tick-borne disease diagnosis and treatment.

13.12(1) *Exemption from discipline.* A person licensed by the board under Iowa Code chapter 148 shall not be subject to discipline under this chapter or the board's enabling statute based solely on the physician's recommendation or provision of a treatment method for Lyme disease or other tick-borne disease if the recommendation or provision of such treatment meets all the following criteria:

a. The treatment is provided after an examination is performed and informed consent is received from the patient.

b. The physician identifies a medical reason for recommending or providing the treatment.

c. The treatment is provided after the physician informs the patient about other recognized treatment options and describes to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne disease.

d. The physician uses the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment will not, in the opinion of the physician, result in the direct and proximate death of or serious bodily injury to the patient.

13.12(2) *Lyme disease treatment.* Most cases of Lyme disease can be treated successfully with a few weeks of antibiotics. Over the past several years, the International Lyme and Associated Diseases Society (ILADS) has supported longer courses of antibiotics for some patients, versus the prescribed treatment durations identified by the Infectious Diseases Society of America (IDSA) and referenced by the CDC. While IDSA has expressed concern about overtreatment, ILADS points out that treatment decisions should be based on a risk-benefit analysis. Both groups have published evidence-based guidelines.

13.12(3) *Tick-borne diseases.* According to the CDC, tick-borne diseases include:

a. *Anaplasmosis* is transmitted to humans by tick bites primarily from the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the United States (U.S.) and the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

b. *Babesiosis* is caused by microscopic parasites that infect red blood cells. Most human cases of babesiosis in the U.S. are caused by *Babesia microti*. *Babesia microti* is transmitted by the blacklegged tick (*Ixodes scapularis*) and is found primarily in the northeastern and upper midwestern regions of the U.S.

c. *Borrelia mayonii* infection has recently been described as a cause of illness in the upper midwestern region of the U.S. This infection has been found in blacklegged ticks (*Ixodes scapularis*) in Minnesota and Wisconsin. *Borrelia mayonii* is a new species and is the only species besides *B. burgdorferi* known to cause Lyme disease in North America.

d. *Borrelia miyamotoi* infection has recently been described as a cause of illness in the U.S. This infection is transmitted by the blacklegged tick (*Ixodes scapularis*) and has a geographic range similar to that of Lyme disease.

e. *Bourbon virus* infection has been identified in a limited number of patients in the midwestern and southern regions of the U.S. At this time, it is not known if the virus might be found in other areas of the U.S.

f. *Colorado tick fever* is caused by a virus transmitted by the Rocky Mountain wood tick (*Dermacentor andersoni*). Colorado tick fever occurs in the Rocky Mountain states at elevations of 4,000 to 10,500 feet.

g. *Ehrlichiosis* is transmitted to humans by the lone star tick (*Amblyomma americanum*), found primarily in the south central and eastern regions of the U.S.

h. *Heartland virus* cases have been identified in the midwestern and southern regions of the U.S. Studies suggest that lone star ticks (*Amblyomma americanum*) can transmit the virus. It is unknown if the virus may be found in other areas of the U.S.

i. *Lyme disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the U.S. and by the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

j. *Powassan disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) and the groundhog tick (*Ixodes cookei*). Cases have been reported primarily from northeastern states and the Great Lakes region.

k. *Rickettsia parkeri rickettsiosis* is transmitted to humans by the Gulf Coast tick (*Amblyomma maculatum*).

l. *Rocky Mountain spotted fever* is transmitted by the American dog tick (*Dermacentor variabilis*), Rocky Mountain wood tick (*Dermacentor andersoni*), and the brown dog tick (*Rhipicephalus sanguineus*) in the U.S. The brown dog tick and other tick species are associated with Rocky Mountain spotted fever in Central America and South America.

m. *Southern tick-associated rash illness* is transmitted via bites from the lone star tick (*Amblyomma americanum*) found in the southeastern and eastern regions of the U.S.

n. *Tick-borne relapsing fever* is transmitted to humans through the bite of infected soft ticks. Tick-borne relapsing fever has been reported in 15 states: Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming and is associated with sleeping in rustic cabins and vacation homes.

o. *Tularemia* is transmitted to humans by the dog tick (*Dermacentor variabilis*), the wood tick (*Dermacentor andersoni*), and the lone star tick (*Amblyomma americanum*). Tularemia occurs throughout the U.S.

p. *364D rickettsiosis* (*Rickettsia phillipi*) is transmitted to humans by the Pacific Coast tick (*Dermacentor occidentalis*). This is a new disease that has been found in California.

13.12(4) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician fails to perform and document an appropriate examination or fails to obtain and document appropriate informed consent from the patient.

b. The physician fails to identify and document a medical reason for recommending or providing the treatment.

c. The physician fails to inform the patient about other recognized treatment options or fails to describe to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne diseases.

d. The physician fails to use the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment provided, in the opinion of the physician, will likely result in the direct and proximate death of or serious bodily injury to the patient.

653—13.13(124E,147,148,272C) Standards of practice—medical cannabidiol.

13.13(1) *Definitions.* For purposes of this rule:

"Bordering state" means the same as defined in Iowa Code section 331.910.

"Debilitating medical condition" means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

8. Parkinson's disease.
9. Chronic pain.
10. Ulcerative colitis.
11. Severe, intractable autism with self-injurious or aggressive behaviors.
12. Corticobasal degeneration.
13. Post-traumatic stress disorder.

"Department" means the Iowa department of public health.

"Form and quantity" means the types and amounts of medical cannabidiol allowed to be dispensed to a patient or primary caregiver as approved by the department subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and adopted by the department pursuant to rule.

"Medical cannabidiol board" means the board established pursuant to Iowa Code section 124E.5.

"Primary caregiver" means a person who is a resident of this state or a bordering state, including but not limited to a parent or legal guardian, at least 18 years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of this chapter.

"Untreatable pain" means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

"Written certification" means a document signed by a physician licensed pursuant to Iowa Code chapter 148 with whom the patient has established a patient-physician relationship and who is the patient's primary care provider that states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

13.13(2) *Written certification.* A physician who is a patient's primary care provider may provide the patient a written certification of diagnosis if, after examining and treating the patient, the physician determines, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

a. The physician shall provide explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

b. Subsequently, the physician shall do the following:

(1) Determine, on an annual basis, if the patient continues to suffer from a debilitating medical condition and, if so, may issue the patient a new written certification of that diagnosis.

(2) Otherwise comply with all requirements established by the department pursuant to rule.

c. A physician may provide, but has no duty to provide, a written certification pursuant to this rule.

13.13(3) *Adding or removing debilitating medical conditions and amending form and quantity of medical cannabidiol.* Recommendations made by the medical cannabidiol board pursuant to Iowa Code section 124E.5 relating to the addition or removal of allowable debilitating medical conditions for which the medical use of cannabidiol would be medically beneficial or to the amendment of the form and quantity of allowable medical uses of cannabidiol shall be made to the board of medicine for consideration. The medical cannabidiol board shall submit a written recommendation, a copy of the petition and all other information received during consideration of the petition. The board of medicine shall consider the information received from the medical cannabidiol board and may seek information from other sources if it is deemed relevant by the board of medicine. The decision regarding a recommendation by the medical cannabidiol board is at the sole discretion of the board of medicine. The board of medicine shall make its decision within 180 days of receipt of the recommendation from the medical cannabidiol board. If the recommendation is approved by the board of medicine, it shall be adopted by rule.

13.13(4) *Financial interests.* A physician shall not share office space with, accept referrals from, or have any financial relationship with a medical cannabidiol manufacturer or dispensary.

13.13(5) *Criminal prosecution.* A physician, including any authorized agent or employee thereof, shall not be subject to prosecution for the unlawful certification, possession, or administration of marijuana under the laws of this state for activities arising directly out of or directly related to the certification or use of medical cannabidiol in the treatment of a patient diagnosed with a debilitating medical condition as authorized by Iowa Code chapter 124E.

13.13(6) *Civil or disciplinary penalties.* A physician, including any authorized agent or employee thereof, shall not be subject to any civil or disciplinary penalties by the board of medicine or any business, occupational, or professional licensing board or entity, solely for activities conducted relating to a patient's possession or use of medical cannabidiol as authorized by Iowa Code chapter 124E. Nothing in this rule prevents the board of medicine from taking action in response to violations of any other sections of law or rule.

13.13(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician provides an individual a written certification without establishing a patient-physician relationship, including examining and treating the individual, or without being the individual's primary care provider.

b. The physician provides a patient a written certification without determining, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

c. The physician provides a patient a written certification without providing explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

d. The physician provides an individual a new written certification without determining, on an annual basis, that the patient continues to suffer from a debilitating medical condition.

e. The physician shares office space with, accepts referrals from, or has a financial relationship with a medical cannabidiol manufacturer or dispensary.

653—13.14(146A) Abortion prerequisites.

13.14(1) *Written certification.* At least 24 hours prior to performing an abortion, a physician shall obtain written certification from the pregnant woman of each prerequisite as required in Iowa Code sections 146A.1(1)*"a"* through 146A.1(1)*"d"*(1). The written certification shall list each required prerequisite separately and shall include a line for date and signature of the pregnant woman. The physician shall maintain a copy of the certification as part of the pregnant woman's medical records.

13.14(2) *Exceptions.* This rule shall not apply to abortions performed in a medical emergency, as provided in Iowa Code section 146A.1(2).

13.14(3) *Discipline.* Failure to comply with this rule or the requirements of Iowa Code section 146A.1 may constitute grounds for discipline.

653—13.15(135L,146A,146E,147,148,272C) Standards of practice for physicians who perform or induce abortions—definitions—detection of fetal heartbeat—fetal heartbeat exceptions—discipline.

13.15(1) *Standards of practice.* This rule sets forth the standards of practice for physicians who perform or induce abortions. More information is contained in Iowa Code section 146E.2(5).

13.15(2) *Definitions.* As used in this rule or in Iowa Code chapter 146E:

"Private health agency" means any establishment, facility, organization, or other entity that is not owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, or other entities that are health care providers include the following:

1. A hospital as defined in Iowa Code section 135B.1;
2. A health care facility as defined in Iowa Code section 135C.1;
3. A health facility as defined in Iowa Code section 135P.1; or
4. A similar entity that either is a health care provider or employs or provides the services of a health care provider.

"Public health agency" means any establishment; facility; organization; administrative division; or entity that is owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, administrative divisions, or other entities that are health care providers include the following:

1. A hospital as defined in Iowa Code section 135B.1;
2. A health care facility as defined in Iowa Code section 135C.1;
3. A health facility as defined in Iowa Code section 135P.1; or
4. A similar entity that either is a health care provider or employs or provides the services of a health care provider.

"Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of Iowa Code chapter 146E and this rule, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the unborn child and the condition of the woman and her pregnancy.

"The pregnancy is the result of a rape" means a circumstance in which the pregnancy is the result of conduct that would constitute an offense under Iowa Code section 709.2, 709.3, 709.4, or 709.4A when perpetrated against a female, regardless of where the conduct occurred.

"The pregnancy is the result of incest" means a circumstance in which a sex act occurs between closely related persons that involves a vaginal penetration that causes a pregnancy. The closely related persons must be related, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew. For purposes of this rule, a closely related person includes a stepparent, stepchild, or stepsibling, including siblings through adoption.

"Unborn child" means an individual organism of the species *Homo sapiens* from fertilization to live birth—that is, at all stages of development, including embryo and fetus.

"Woman" means a female individual regardless of her age.

13.15(3) *Detection of fetal heartbeat.* A physician who intends to perform or induce an abortion must determine via ultrasound whether the woman is carrying an unborn child with a detectable fetal heartbeat.

a. Obligation. The obligation under this rule requires a bona fide effort to detect a fetal heartbeat in the unborn child. This effort must be made in good faith and according to standard medical practice and reasonable medical judgment.

b. Method. The physician shall perform a transabdominal pelvic ultrasound on the woman to determine whether the unborn child has a detectable fetal heartbeat. This shall be performed in a manner consistent with standard medical practice, with real-time ultrasound equipment with a transducer of appropriate frequency. The equipment must be properly maintained and in proper functioning order.

13.15(4) *Fetal heartbeat exceptions.* The following applies to a physician who intends to perform or induce an abortion under a fetal heartbeat exception as defined in Iowa Code chapter 146E and this rule:

a. Incest or rape. For purposes of this rule, a pregnancy resulting from incest or rape may be reported within the appropriate time frame to a licensed physician whose services are retained for an abortion procedure.

(1) To determine whether the pregnancy is the result of incest, a physician who intends to perform or induce an abortion must use the following information:

1. Whether the sex act occurred between the woman and a closely related person, meaning, either legitimately or illegitimately, an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, including a stepparent, stepchild, or stepsibling to include an adopted sibling.
2. The date the act occurred.
3. If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the act was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for incest applies. This information does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information received upon a good-faith assessment that the information is true. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

(2) To determine whether the pregnancy is the result of a rape, a physician who intends to perform or induce an abortion must use the following information:

1. The date the sex act that caused the pregnancy occurred.
2. The age of the woman seeking an abortion at the time of that sex act.
3. Whether the sex act constituted a rape.
4. Whether the rape was perpetrated against the woman seeking an abortion.
5. If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the rape was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for rape applies. This rule does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information received upon a good-faith assessment that the information is true. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

b. Fetal abnormality. A certification from an attending physician that a fetus has a fetal abnormality that in the attending physician's reasonable medical judgment is incompatible with life must contain the following information:

(1) The diagnosis of the abnormality;

(2) The basis for the diagnosis, including the tests and procedures performed, the results of those tests and procedures, and why those results support the diagnosis; and

(3) A description of why the abnormality is incompatible with life.

The diagnosis and the attending physician's conclusion must be reached in good faith following a bona fide effort, consistent with standard medical practice and reasonable medical judgment, to determine the health of the fetus. The certification must be signed by the attending physician. A physician who intends to perform or induce an abortion may rely in good faith on a certification from an attending physician if the physician who intends to perform or induce an abortion has a copy of the certification. The certification must be included in the woman's medical records by the physician who intends to perform or induce an abortion.

13.15(5) *Discipline.* Failure to comply with this rule or the requirements of Iowa Code chapter 146E may constitute grounds for discipline.

653—13.16(147,148) Principles of medical ethics. The Code of Medical Ethics (2002-2003) prepared and approved by the American Medical Association and the Code of Ethics (2002-2003) prepared and approved by the American Osteopathic Association is utilized by the board as guiding principles in the practice of medicine and surgery and osteopathic medicine and surgery in this state.

13.16(1) *Conflict of interest.* A physician should not provide medical services under terms or conditions that tend to interfere with or impair the free and complete exercise of the physician's medical judgment and skill or tend to cause a deterioration of the quality of medical care.

13.16(2) *Fees.* Any fee charged by a physician shall be reasonable.

653—13.17(147A) Emergency medical care provider. A physician with a license in good standing may be staffed on an authorized emergency medical services (EMS) program provided the physician can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when documentation has been reviewed and approved at the local level by the medical director of the authorized EMS service program and the department of health and human services bureau of emergency medical and trauma services in accordance with the form adopted by the department of health and human services.

These rules are intended to implement Iowa Code chapters 124, 124E, 144E, 146E, 148 and 272C and sections 147.55, 148.6, 147.107, 272C.3 and 272C.4.

ARC 8702C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to licensure of acupuncturists and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 17, "Licensure of Acupuncturists," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 148, 148E and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148, 148E and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 17 and adopt a new chapter with the same title. This proposed rulemaking sets minimum standards for entry into the profession for acupuncturists. Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which

individuals apply for licensure as an acupuncturists in the state of Iowa, including initial licensure, renewal, and reactivation. These requirements ensure public safety by specifying that all individuals entering the profession have minimum competency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17
LICENSURE OF ACUPUNCTURISTS

653—17.1(148E) Scope of chapter. The rules in this chapter only apply to individuals licensed under Iowa Code chapter 148E. In accordance with Iowa Code section 148E.3, the rules in this chapter do not apply to the following:

1. A person otherwise licensed by the state to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's profession.
2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

653—17.2(148E) Definitions. The definitions stated in Iowa Code section 148E.1 apply to this chapter, in addition to those listed below.

"Accreditation Commission for Acupuncture and Oriental Medicine" or *"ACAOM"* means the United States-based accreditation commission that certifies acupuncture and oriental medicine training programs and colleges.

"Acupuncture needle" means a solid-core instrument including but not limited to acupuncture needles, dermal needles, intradermal needles, press tacks, plum blossom needles, prismatic needles, and disposable lancets.

"Acupuncture point" means a specific anatomical location on the human body that serves as the treatment site for the use of acupuncture.

"Applicant" means a person not otherwise authorized to practice acupuncture under Iowa Code section 148E.3 who applies to the board for a license.

"Ashi acupuncture point" means an acupuncture point that is located according to tenderness upon palpation. An ashi acupuncture point is also known as a trigger point.

"Committee" means the licensure committee of the board with oversight responsibility for administration of the licensure of acupuncturists.

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

"Disclosure sheet" means the written information licensed acupuncturists must provide to patients on initial contact.

"Disposable needles" means presterilized needles that are discarded after initial use pursuant to Iowa Code section 148E.5.

"License" means a license issued by the board pursuant to Iowa Code section 148E.2.

"Licensee" means a person holding a license to practice acupuncture issued by the board pursuant to Iowa Code chapter 148E.

"National Certification Commission for Acupuncture and Oriental Medicine" or *"NCCAOM"* means the United States-based commission that validates entry-level competency in the practice of acupuncture and oriental medicine through professional certification.

653—17.3(147,148E) Eligibility for licensure.

17.3(1) *Eligibility requirements.* To be licensed to practice acupuncture by the board, a person shall meet all of the following requirements:

a. Fulfill all the application requirements as specified in 653—17.4(147,148E).

b. Hold current active status as a diplomate in NCCAOM or, after June 1, 2004, hold current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.

c. Demonstrate sufficient knowledge of the English language to understand and be understood by patients and board and committee members.

(1) An applicant who passed the NCCAOM written and practical examination components in English may be presumed to have sufficient proficiency in English.

(2) An applicant who passed NCCAOM written or practical examination components in a language other than English shall pass the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) examinations administered by the Educational Testing Service.

d. Successfully complete a three-year postsecondary training program or acupuncture college program that is accredited by, in candidacy for accreditation by, or that meets the standards of the Accreditation Commission for Acupuncture and Oriental Medicine.

e. Successfully complete a course in clean needle technique approved by the NCCAOM.

f. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

17.3(2) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 653—Chapter 3 or any other provision of law.

653—17.4(147,148E) Application requirements.

17.4(1) *Application for licensure.* To apply for a license to practice acupuncture, an applicant shall:

a. Submit the completed application form provided by the board, including required credentials and documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—subrule 8.2(1); and

c. Pay the fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the national criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

17.4(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A chronology accounting for all time periods from the date the applicant entered an acupuncture and oriental medicine training program or college to the date of the application;

c. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice acupuncture, including license, certificate of registration or certification numbers, and date of issuance;

d. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process;

e. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. The NCCAOM score report verification form submitted directly to the board by the NCCAOM;

h. An NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM;

i. Proof of successful completion of a course in clean needle technique approved by the NCCAOM;

j. A description of the applicant's clinical acupuncture training, work experience and, where applicable, supporting documentation;

k. A copy of the applicant's acupuncture degree issued by an educational institution. If a copy of the acupuncture degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

l. A complete translation of any diploma not written in English. An official transcript, written in English and received directly from the educational institution, showing graduation from an acupuncture training program or an educational institution is a suitable alternative;

m. A sworn statement from an official of the educational institution certifying the date the applicant received the acupuncture degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

n. An official transcript sent directly from an acupuncture training program or an educational institution attended by the applicant and, if requested by the board, an English translation of the official transcript;

o. Proof of the applicant's proficiency in the English language, when the applicant has not passed the English version of the NCCAOM written and practical examinations;

p. Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board; and

q. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

17.4(3) *Application cycle.* If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application is inactive.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—subrule 8.2(2) and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, applicants must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

17.4(4) *Applicant responsibilities.* An applicant for licensure to practice acupuncture bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in subrule 17.4(2);

b. Providing accurate, up-to-date, and truthful information on the application form, including but not limited to that specified under subrule 17.4(2) related to prior professional experience, education, training, examination scores, diplomate status, licensure or registration, and disciplinary history; and

c. Submitting English translations of documents in foreign languages bearing the affidavit of the translator certifying that the translation is a true and complete translation of the foreign language original. The applicant shall bear the expense of the translation.

17.4(5) *Licensure application review process.* The process below is utilized to review each application. Priority is given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

a. An application for initial licensure is considered open from the date the application form is received in the board office with the nonrefundable initial application fee.

b. After reviewing each application, staff will notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and the director of legal affairs will determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff will administratively grant the license.

(2) If any concern exists, the application will be referred to the committee.

e. Staff will refer to the committee for review matters that include but are not limited to: falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to issue the license administratively.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license.

h. The board will consider applications and recommendations from the committee and will:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

17.4(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in rule 653—17.3(147,148E) as authorized by Iowa Code section 148E.2 or of this chapter.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148E.8 or in 481—Chapter 8.

17.4(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board will issue a preliminary notice of denial that will be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and cites the factual and legal basis for denying the application, notifies the applicant of the appeal process, and specifies the date upon which the denial will become final if it is not appealed.

17.4(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board will consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

17.4(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing will be a contested case open to the public and conducted in accordance with 481—Chapter 506.

17.4(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 17.4(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

17.4(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 17.4(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice will state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

17.4(12) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

653—17.5(147,148E,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148E.2, a license expires on October 31 of even-numbered years and can be renewed for the fee identified in 653—paragraph 8.2(2)*"c."* The applicant for renewal shall provide an NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

17.5(1) *Expiration date.* Certificates of licensure to practice acupuncture expire on October 31 in even years.

17.5(2) *Prorated fees.* The first renewal fee for a license will be prorated on a monthly basis according to the date of issue.

17.5(3) *Renewal requirements and penalties for late renewal.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

a. Upon receipt of the completed renewal application, staff will administratively issue a license that expires on October 31 of even-numbered years. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

b. Every renewal shall be displayed in connection with the original certificate of licensure.

c. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty stated in 657—paragraph 8.2(2)*"g"* will be assessed for renewal in the grace period, a period up until January 1.

17.5(4) *Inactive license.* Failure of a licensee to renew by January 1 will result in inactivation of the license, and the license will be invalid.

a. Licensees are prohibited from engaging in the practice of acupuncture with an inactive or lapsed license.

b. Having an acupuncturist license in lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148E.8.

653—17.6(147,272C) Reactivation of an inactive license.

17.6(1) *Reactivation requirements.* Licensees who allow their licenses to go inactive by failing to renew may apply for reactivation of a license. Pursuant to Iowa Code section 147.11, applicants for reactivation shall:

a. Submit completed application for reactivation of a license to practice acupuncture. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(5) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(6) A chronology accounting for all time periods from the date of initial licensure.

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reactivation fee identified in rule 653—8.2(147,148,272C) plus the fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. Provide an NCCAOM certificate which demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

e. Meet any new requirements instituted since the license lapsed.

17.6(2) *Reactivation restrictions.* Pursuant to Iowa Code section 272C.3(2)*"d,"* the committee may require an applicant who has not engaged in active practice in the past three years in any jurisdiction of the United States to meet any or all of the following requirements prior to reactivation of a license:

a. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

b. Successfully pass a competency evaluation approved by the board;

c. Successfully pass an examination approved by the board; or

d. Successfully complete a reentry to practice program or monitoring program approved by the board.

653—17.7(272C) Continuing education requirements. Licensees shall demonstrate that they hold current active status as a diplomate from the NCCAOM. The NCCAOM requires 60 points of professional development activity every four years. Active NCCAOM certification satisfies the continuing education requirements established in Iowa Code section 272C.2.

653—17.8(147,148E,272C) General provisions.

17.8(1) *Diagnostic and treatment modalities.* Diagnostic and treatment modalities used by licensees under this chapter may include one or more of the following acupunctural services:

a. The stimulation or piercing of the skin with an acupuncture needle for any of the following purposes:

(1) To evoke a therapeutic physiological response, either locally or distally to the area of insertion or stimulation.

(2) To relieve pain or treat the neuromusculoskeletal system.

(3) To stimulate ashi acupuncture points to relieve pain and dysfunction.

(4) To promote, maintain, and restore health and to prevent disease.

(5) To stimulate the body according to auricular, hand, nose, face, foot or scalp acupuncture therapy.

(6) To use acupuncture needles with or without the use of herbs, electric current, or application of heat.

b. The use of oriental medical diagnosis and treatment, including:

(1) Moxibustion, cupping, thermal methods, magnets, gua sha scraping techniques, acupatches, herbal poultices, hot and cold packs, electromagnetic wave therapy, light and color therapy, sound therapy, or therapy lasers.

(2) Massage, acupressure, reflexology, shiatsu and tui na massage, or manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin.

(3) Herbal medicine and dietary supplements, including those of plant, mineral, animal, and nutraceutical origin.

c. Any other adjunctive service or procedure that is clinically appropriate based on the licensee's training as approved by NCCAOM or ACAOM.

17.8(2) *Use and disposal of needles.* A licensee shall use only presterilized, disposable needles and shall provide for the disposal of used needles in accordance with the requirements of the department.

17.8(3) *Standard of care.* A licensee shall be held to the same standard of care as persons licensed to practice medicine and surgery or osteopathic medicine and surgery. Pursuant to Iowa Code section 272C.3, any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care in the practice of acupuncture constitutes malpractice and is grounds for the revocation or suspension of a license to practice acupuncture in this state.

17.8(4) *Title.* An acupuncturist licensed under this title may use the words "licensed acupuncturist" or "L.Ac." to connote professional standing after the licensee's name in accordance with Iowa Code section 147.74(18).

17.8(5) *Change of contact information.* Licensees shall notify the board of changes in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

17.8(6) *Delegation of responsibilities.* A licensee shall perform all aspects of acupuncture treatment that involve penetration of the skin of a patient. The licensee may delegate other aspects of treatment to staff and patients who are properly trained by the licensee. It is permissible for appropriately trained staff and patients to remove acupuncture needles from the patient's body. The licensee is responsible for establishing and maintaining written training standards for staff.

17.8(7) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

17.8(8) *Deceased.* A licensee's file will be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

These rules are intended to implement Iowa Code chapter 148E and sections 17A.10 through 17A.20, 147.55, 272C.3 through 272C.6, 272C.8 and 272C.9.

ARC 8693C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to prescribing psychologists and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 19, "Prescribing Psychologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 124, 147, 148, 154B and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 124, 147, 148, 154B and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 19 and adopt a new chapter with the same title. This proposed rulemaking details the supervision required of a psychologist who prescribes medications to patients. The chapter lays out the requirements that must be met related to the supervising physician, the training and education required, and requirements of the psychologist. This chapter helps ensure that the public receives competent and safe care from the practitioner. Cross-references to 481—Chapter 883 are to that chapter as proposed to be adopted in the 10/2/2024 Iowa Administrative Bulletin.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 a 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 653—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
PRESCRIBING PSYCHOLOGISTS

653—19.1(148,154B) Joint rules adopted. The board of medicine adopts and incorporates the following rules as its own: 481—883.1(148,154B), 481—883.3(148,154B), 481—883.4(148,154B), 481—883.6(148,154B) through 481—883.8(148,154B), and 481—883.11(148,154B) through 481—883.13(148,154B).

653—19.2(17A,124,147,148,154B,272C) Standards of practice—supervision of a conditional prescribing psychologist. A supervising physician shall be a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice and who supervises a conditional prescribing psychologist. A supervising physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A supervising physician shall fully comply with the following standards of practice:

19.2(1) *Supervision.* During supervised practice, a supervising physician oversees a conditional prescribing psychologist to ensure patient safety and optimal outcomes. This includes ensuring proper clinical examinations, necessary testing, and appropriate psychopharmacology services for the patient's condition. Supervision can occur in person or electronically according to these rules.

19.2(2) *Primary supervising physician.* A supervising physician shall determine whether the supervising physician has been designated as a conditional prescribing psychologist's primary supervising physician and fulfills the responsibilities of the primary supervising physician in accordance with these rules. A conditional prescribing psychologist may have more than one supervising physician.

19.2(3) *Maximum number of conditional prescribing psychologists.* A supervising physician cannot supervise more than two conditional prescribing psychologists at one time.

19.2(4) *Minimum period of supervision.* The primary supervising physician shall ensure that a conditional prescribing psychologist completes a minimum of two years of supervised practice prescribing psychotropic medications to patients with mental disorders in accordance with these rules in order for the conditional prescribing psychologist to be eligible to apply for a prescription certificate.

19.2(5) *Minimum number of patients.* The primary supervising physician shall ensure that a conditional prescribing psychologist has seen a minimum of 300 patients who had a diagnosed mental disorder for whom pharmacological intervention was considered as a treatment option, even if a decision was made not to prescribe a psychotropic medication to the patient. The primary supervising physician shall ensure that a conditional prescribing psychologist has treated a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

19.2(6) *Initial assessment.* Prior to supervising a conditional prescribing psychologist, each supervising physician shall assess the conditional prescribing psychologist's relevant education, training, experience, and competence.

19.2(7) *Scope of practice.* Each supervising physician shall ensure that all psychopharmacology services provided by a conditional prescribing psychologist are within the competence and scope of practice of the supervising physician and the conditional prescribing psychologist.

19.2(8) *Prescriptive authority.* Each supervising physician shall ensure that a conditional prescribing psychologist only prescribes psychotropic medications for the treatment of mental disorders.

19.2(9) *Prescriptions.* A supervising physician shall ensure that each prescription issued by a conditional prescribing psychologist identifies the prescriber as a "psychologist certified to prescribe" and includes the Iowa license number of the conditional prescribing psychologist and the name of the supervising physician.

19.2(10) *Active DEA and CSA registration.* A supervising physician shall ensure that a conditional prescribing psychologist has an active DEA registration and CSA registration at all times during the period of supervision.

19.2(11) *Patient populations.* A supervising physician shall ensure that a conditional prescribing psychologist only provides psychopharmacology services to patient populations within the conditional prescribing psychologist's education, training, experience, and competence. A supervising physician may establish limitations on the types of populations to whom a conditional prescribing psychologist may provide psychopharmacology services based on the conditional prescribing psychologist's education, training, experience, and competence.

19.2(12) *Psychotropic medications.* A supervising physician shall ensure that a conditional prescribing psychologist only prescribes psychotropic medications that are within the conditional prescribing psychologist's education, training, experience, and competence. A supervising physician may establish limitations on the types of psychotropic medications that a conditional prescribing psychologist may prescribe based on the conditional prescribing psychologist's education, training, experience, and competence.

19.2(13) *Specialization.* A supervising physician shall ensure that a conditional prescribing psychologist has completed the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

a. Children. To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A pediatric practice,

(2) A child and adolescent practice, or

(3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

b. Elderly patients. To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A geriatric practice, or

(2) A general practice with patients across the lifespan including patients who are over 65 years of age.

c. Serious medical conditions. To prescribe to patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, a supervising physician shall ensure that a conditional prescribing psychologist has completed at least one year prescribing psychotropic medications to patients with serious medical conditions if the conditional prescribing psychologist intends to treat patients with serious medical conditions after the supervised practice period.

19.2(14) *Informed consent.* A supervising physician shall ensure that a conditional prescribing psychologist obtains appropriate informed consent before the conditional prescribing psychologist provides psychopharmacology services to a patient.

19.2(15) *Release of information.* A supervising physician shall ensure that a conditional prescribing psychologist obtains a release of information authorizing the conditional prescribing psychologist to share information with the supervising physician before the conditional prescribing psychologist provides psychopharmacology services to a patient.

19.2(16) *Primary care physician.* A supervising physician shall ensure that each patient has a designated primary care physician before a conditional prescribing psychologist provides psychopharmacology services to a patient. A supervising physician shall ensure that a conditional prescribing psychologist maintains a cooperative relationship with the primary care physician who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed. A supervising physician shall ensure that a conditional prescribing psychologist engages in appropriate consultation with a patient's designated primary care physician while the conditional prescribing psychologist is providing psychopharmacology services to a patient.

19.2(17) *Chart reviews.* A supervising physician shall personally review a representative sample of the conditional prescribing psychologist's patient charts.

19.2(18) *Performance evaluations.* A supervising physician shall regularly evaluate the clinical judgment, skills and performance of a conditional prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the conditional prescribing psychologist.

19.2(19) *Supervision plan.* Before supervising a conditional prescribing psychologist, a supervising physician must ensure there is an approved written supervision plan. This plan should outline the supervisory relationship, including review parameters, and consider both parties' education, training, and experience and the psychopharmacology services involved. A template is available from the boards of medicine and psychology. Both the supervising physician and the psychologist must keep a copy of the plan and provide it to the boards if requested. The supervision plan shall include the following:

a. Conditional prescribing psychologist's information. The name, license number, address, telephone number, and email address of the conditional prescribing psychologist.

b. Supervising physician's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the supervising physician.

c. Designation of the primary supervising physician. Designation of the conditional prescribing psychologist's primary supervising physician.

d. Period of supervision. The beginning date of the supervision plan and estimated date of completion.

e. Locations and settings. A description of the locations and settings where and with whom supervision will occur.

f. Scope of practice. A description of the scope of practice of the supervising physician and the conditional prescribing psychologist.

g. Methods of communication. A description of how the supervising physician and conditional psychologist may communicate for appropriate supervision.

h. Initial assessment. A description of the steps the supervising physician has taken to assess a conditional prescribing psychologist's relevant education, training, experience, and competence prior to supervising the conditional prescribing psychologist.

i. Limitations on psychotropic medications. A description of any limitations on the types of psychotropic medications the conditional prescribing psychologist may prescribe consistent with the supervising physician's and prescribing psychologist's relevant education, training, experience, and competence.

j. Limitations on patient populations. A description of any limitations on the types of populations the conditional prescribing psychologist may treat with psychotropic medications consistent with the supervising physician's and prescribing psychologist's relevant education, training, experience, and competence.

k. Expectations and responsibilities. A description of the expectations and responsibilities of the supervisory relationship.

l. Specialization. A description of the specialized training to be completed by the conditional prescribing psychologist in order to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities in accordance with rule 481—883.4(148,154B).

m. Chart reviews. A description of the steps the supervising physician has taken to personally review a representative sample of the conditional prescribing psychologist's patient charts.

n. Consultation between the supervising physician and the primary care physician. A requirement that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

o. Performance evaluations. A description of the steps the supervising physician has taken to regularly evaluate the clinical judgment, skills and performance of a conditional prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the conditional prescribing psychologist.

p. Termination of the supervision plan. A description of how the supervision plan may be terminated and the process for notifying affected patients.

q. Signatures. Signatures of the conditional prescribing psychologist and all supervising physicians.

r. Amendment to the supervision plan. A requirement that a conditional prescribing psychologist shall inform the board of psychology of any amendments to the supervision plan, including the addition of any supervising physicians, within 30 days of the change and that any amendment to a supervisory plan be subject to approval of the board of psychology.

s. Request for extension. If the primary supervising physician determines that a conditional prescribing psychologist is unable to successfully complete the supervised practice prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist and the primary supervising physician can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested.

19.2(20) *Certification of completion.* At the conclusion of the supervised practice period, the primary supervising physician shall certify the following:

a. Supervision. That each supervising physician has provided supervision to the conditional prescribing psychologist in accordance with these rules.

b. Minimum period of supervised practice. That the conditional prescribing psychologist has successfully completed a minimum of two years of supervised practice.

c. Minimum number of patients. That the conditional prescribing psychologist has seen a minimum of 300 patients who had a diagnosed mental disorder with whom pharmacological intervention was considered as a treatment option, even if a decision was made not to prescribe a psychotropic medication to the patient, and that the conditional prescribing psychologist has treated a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

d. Specialization. That a conditional prescribing psychologist who intends to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, has successfully completed a minimum of one year of supervised practice with the respective populations during the supervised practice period.

e. Demonstrated competence. That a conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by demonstrating competency in the milestones sufficient to obtain a prescription certificate in accordance with 481—subrule 883.3(2).

653—19.3(17A,124,147,148,154B,272C) Standards of practice—collaboration with a prescribing psychologist. A collaborating physician shall be a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who serves as a resource for a prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A collaborating physician shall fully comply with the following standards of practice:

19.3(1) *Collaboration.* A collaborating physician shall provide appropriate collaboration with a prescribing psychologist to achieve patient safety and optimal clinical outcomes. A collaborating physician shall ensure that appropriate clinical examinations and necessary testing are performed and that all psychopharmacology services provided are appropriate for the patient's condition. Collaboration may be in person or via electronic communications in accordance with these rules. A prescribing psychologist may have more than one collaborating physician.

19.3(2) *Maximum number of prescribing psychologists.* A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time.

19.3(3) *Initial assessment.* Prior to serving as a collaborating physician, a physician shall assess a prescribing psychologist's relevant education, training, experience, and competence.

19.3(4) *Scope of practice.* A collaborating physician shall ensure that all psychopharmacology services provided by a prescribing psychologist are within the competence and scope of practice of the collaborating physician and the prescribing psychologist.

19.3(5) *Prescriptive authority.* A collaborating physician shall ensure that a prescribing psychologist only prescribes psychotropic medications for the treatment of mental disorders.

19.3(6) *Delegation.* A collaborating physician shall ensure that a prescribing psychologist does not delegate prescriptive authority to any other person.

19.3(7) *Narcotics.* A collaborating physician shall ensure that a prescribing psychologist does not prescribe narcotics.

19.3(8) *Active DEA and CSA registration.* A collaborating physician shall ensure that a prescribing psychologist has an active DEA registration and CSA registration at all times during the period of collaboration.

19.3(9) *Patient populations.* A collaborating physician shall ensure that a prescribing psychologist only provides psychopharmacology services to patient populations within the prescribing psychologist's education, training, experience, and competence. A collaborating physician may establish limitations on the types of populations to whom a prescribing psychologist may provide psychopharmacology services based on the prescribing psychologist's education, training, experience, and competence.

19.3(10) *Psychotropic medications.* A collaborating physician shall ensure that a prescribing psychologist only prescribes psychotropic medications that are within the prescribing psychologist's education, training, experience, and competence. A collaborating physician may establish limitations on the types of psychotropic medications that a prescribing psychologist may prescribe based on the prescribing psychologist's education, training, experience, and competence.

19.3(11) *Specialization.* A collaborating physician shall ensure that a prescribing psychologist has completed at least one year of the required two years of supervised practice with the respective population in accordance with rule 481—883.4(148,154B) before the prescribing psychologist provides psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to, heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities.

19.3(12) *Informed consent.* A collaborating physician shall ensure that a prescribing psychologist obtains appropriate informed consent before a prescribing psychologist provides psychopharmacology services to a patient.

19.3(13) *Release of information.* A collaborating physician shall ensure that a prescribing psychologist obtains a release of information authorizing the prescribing psychologist to share information with the collaborating physician before the prescribing psychologist provides psychopharmacology services to a patient.

19.3(14) *Primary care physician.* A collaborating physician shall ensure that each patient has a designated primary care physician before a prescribing psychologist provides psychopharmacology services to a patient. A collaborating physician shall ensure that a prescribing psychologist maintains a cooperative relationship with the primary care physician who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed. A collaborating physician shall ensure that a prescribing psychologist engages in appropriate consultation with a patient's designated primary care physician while the prescribing psychologist is providing psychopharmacology services to a patient.

19.3(15) *Chart reviews.* A collaborating physician shall personally review a representative sample of the prescribing psychologist's patient charts.

19.3(16) *Performance evaluations.* A collaborating physician shall regularly evaluate the clinical judgment, skills and performance of a prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the prescribing psychologist.

19.3(17) *Collaborative practice agreement.* Prior to serving as a collaborating physician for a prescribing psychologist, the collaborating physician shall ensure that the prescribing psychologist has a written collaborative practice agreement in place. A template may be obtained from the boards of medicine and psychology. The collaborative practice agreement shall define the nature and extent of the collaborative relationship and outline specific parameters for review of the collaborative relationship. The collaborative practice agreement shall take into account the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence and the nature and scope of the psychopharmacology services to be provided. The collaborating physician shall review the terms of the collaborative practice agreement with the prescribing psychologist at least once each year. The collaborating physician and prescribing psychologist shall each maintain a copy of the collaborative practice agreement and provide a copy of the agreement to the boards of medicine and psychology upon request. The collaborative practice agreement shall include the following:

a. Prescribing psychologist's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.

b. Collaborating physician's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.

c. Period of collaboration. The time period covered by the collaborative practice agreement.

d. Locations and settings. A description of the locations and settings where and with whom collaborative practice will occur.

e. Scope of practice. A description of the scope of practice of the collaborating physician and the prescribing psychologist.

f. Methods of communication. A description of how the collaborating physician and prescribing psychologist may communicate for appropriate collaboration.

g. Initial assessment. A description of the steps the collaborating physician has taken to assess a prescribing psychologist's relevant education, training, experience, and competence prior to collaborating with a prescribing psychologist.

h. Limitations on psychotropic medications. A description of any limitations on the types of psychotropic medications the prescribing psychologist may prescribe consistent with the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence.

i. Limitations on patient populations. A description of any limitations on the types of populations the prescribing psychologist may treat with psychotropic medications consistent with the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence.

j. Expectations and responsibilities. A description of the expectations and responsibilities of the collaborative relationship.

k. Specialization. A description of the specialized training the prescribing psychologist has completed in order to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to, heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities in accordance with rule 481—883.4(148,154B).

l. Chart reviews. A description of the steps the collaborating physician has taken to personally review a representative sample of the prescribing psychologist's patient charts.

m. Consultation between the collaborating physician and the primary care provider. A requirement that the collaborating physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

n. Performance evaluations. A description of the steps the collaborating physician has taken to regularly evaluate the clinical judgment, skills and performance of the prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the prescribing psychologist.

o. Termination of the collaborative practice agreement. A provision describing how the collaborative practice agreement may be terminated and the process for notifying affected patients.

p. Signatures. Signatures of the collaborating physician and the prescribing psychologist.

653—19.4(17A,124,147,148,272C) Grounds for discipline. A physician who fails to comply with these rules may be subject to disciplinary action by the board of medicine.

These rules are intended to implement Iowa Code chapters 148 and 154B.

ARC 8703C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to licensure of genetic counselors and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 20, "Licensure of Genetic Counselors," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 148H and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 148, 148H and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 20 and adopt a new chapter with the same title. This proposed rulemaking sets minimum standards for genetic counselors for entry into the medical profession. Iowa residents, licensees, and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure as a genetic counselor in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reactivation. These requirements ensure public safety by requiring individuals entering the profession to have minimum competency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
LICENSURE OF GENETIC COUNSELORS

653—20.1(148H) Scope of chapter. This chapter does not apply to any of the following:

1. A physician or surgeon or an osteopathic physician or surgeon licensed under Iowa Code chapter 148, a registered nurse or an advanced registered nurse practitioner licensed under Iowa Code chapter 152, a physician assistant licensed under Iowa Code chapter 148C, or other persons licensed under Iowa Code chapter 147 when acting within the scope of the person's profession and doing work of a nature consistent with the person's education and training.
2. A person who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy and is not a genetic counselor licensed pursuant to Iowa Code chapter 148H.
3. A person employed as a genetic counselor by the federal government or an agency thereof if the person provides genetic counseling services solely under the direction and control of the entity by which the person is employed.
4. A genetic counseling intern.

653—20.2(148H) Definitions. The definitions stated in Iowa Code chapter 148H, in addition to those listed below, apply to this chapter.

"American Board of Genetic Counseling" or *"ABGC"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

"American Board of Medical Genetics and Genomics" or *"ABMGG"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

653—20.3(148H) Titles used. A genetic counselor licensed under Iowa Code chapter 148H may use the words "genetic counselor" or "licensed genetic counselor" or the corresponding abbreviation "LGC" after the person's name. Persons who possess a provisional license shall add the designation "provisional licensed genetic counselor."

653—20.4(148H) Qualifications for licensure.

20.4(1) Each applicant for licensure under Iowa Code chapter 148H shall:

a. Submit an application form and supporting documentation.

b. Hold active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

20.4(2) A licensee shall maintain active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

653—20.5(148H) Qualifications for provisional licensure. The board may issue a provisional license to an applicant who meets all of the requirements for licensure except for the certification component and who has been granted active candidate status by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

20.5(1) The applicant shall submit a provisional license application form, proof of active candidate status, and supporting documentation prescribed by the board.

20.5(2) A provisional license expires and becomes inactive upon the earliest of the following:

a. Issuance of a license as a genetic counselor by the board.

b. Loss of active candidate status.

(1) A person holding a provisional license that is inactive due to loss of active candidate status may submit an application for reactivation of the provisional license upon demonstrating that active candidate status has been reestablished.

(2) An application for extension of a provisional license shall be signed by a qualified supervisor.

c. The date printed on the provisional license.

20.5(3) A person with a provisional license shall work at all times under the supervision of a qualified supervisor.

653—20.6(147,148H) Application requirements.

20.6(1) *Application for licensure.* To apply for a license to practice genetic counseling, an applicant shall:

a. Submit the completed application, including required credentials and documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—subrule 8.13(1) and pay the fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the national criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

20.6(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A chronology accounting for all time periods from the date the applicant entered a genetic counseling training program or educational institution to the date of the application;

c. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice genetic counseling, including license, certificate of registration or certification number and date of issuance;

d. Full disclosure of the applicant's involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process;

e. A statement disclosing and explaining any informal or nonpublic actions, such as letters of warning, letters of education, any confidential retraining, or any kind of confidential action taken toward a genetic counselor's certification or license that is not public discipline; warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure;

h. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

20.6(3) *Application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application is inactive.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—subrule 8.13(2) and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, an applicant must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

20.6(4) *Applicant responsibilities.* An applicant for licensure to practice genetic counseling bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national certifying organizations, health facilities, and educational institutions providing the information specified in subrule 20.6(2);

b. Providing accurate, up-to-date, and truthful information on the application form including but not limited to that specified under subrule 20.6(2) related to prior professional experience, education, training, active certification, licensure, and disciplinary history.

20.6(5) *Licensure application review process.* Licensure applications will be reviewed pursuant to the process outlined in rule 653—9.8(147,148).

20.6(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, and after consultation with an Iowa-licensed genetic counselor, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in this chapter pursuant to Iowa Code section 148H.3.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148H.7 or in rule 653—20.20(147,148H,272C).

20.6(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board issues a preliminary notice of denial that is sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and cites the factual and legal basis for denying the application, notifies the applicant of the appeal process, and specifies the date upon which the denial will become final if it is not appealed.

20.6(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board considers the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

20.6(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing will be a contested case open to the public and conducted in accordance with 481—Chapter 506.

20.6(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 20.6(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

20.6(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 20.6(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice will state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

20.6(12) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 653—Chapter 3 or any other provision of law.

653—20.7(147,148H) Display of license and notification required to change the board's data system.

20.7(1) *Display of license.* Licensed genetic counselors shall display the license issued by the board in a conspicuous place in their primary place of business.

20.7(2) *Change of contact information.* Licensees shall notify the board within one month of a change in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board.

20.7(3) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

20.7(4) *Deceased.* A licensee's file will be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

653—20.8(147,148H,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148H.3, a license expires on October 31 of odd-numbered years and can be renewed for the fee identified in 653—paragraph 8.14(2)*"c."*

20.8(1) *Application.* The applicant for renewal shall provide:

a. A renewal application.

b. A letter sent directly from the ABGC or ABMGG to the board verifying that the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a

letter sent directly from ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure.

c. Satisfactory evidence to the board that in the period since the license was issued or last renewed, the applicant has completed 30 hours of National Society of Genetic Counselors or ABMGG continuing education units as approved by the board.

20.8(2) *Expiration date.* Certificates of licensure to practice genetic counseling expires on October 31 in odd years.

20.8(3) *Prorated fees.* The first renewal fee for a license will be prorated on a monthly basis according to the date of issue.

20.8(4) *Renewal requirements and penalties for late renewal.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

a. Upon receipt of the completed renewal application, staff will administratively issue a license that expires on October 31 of odd-numbered years. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

b. Every renewal shall be displayed in connection with the original certificate of licensure.

c. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty fee identified in 653—subrule 8.13(4) will be assessed for renewal in the grace period, a period up until January 1.

20.8(5) *Inactive license.* Failure of a licensee to renew by January 1 will result in inactivation of the license, and the license will become invalid.

a. Licensees are prohibited from engaging in the practice of genetic counseling with an inactive or lapsed license.

b. Having a genetic counselor license in inactive or lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148H.7.

653—20.9(147,272C) Reactivation of an inactive license.

20.9(1) *Reactivation requirements.* Licensees who allow their licenses to go inactive by failing to renew may apply for reactivation of a license. Pursuant to Iowa Code section 147.11, applicants for reactivation shall:

a. Submit a completed application for reactivation of a license to practice genetic counseling. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant's involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority; an educational institution; a training or research program; or a health facility in any jurisdiction.

(5) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(6) A chronology accounting for all time periods from the date of initial licensure.

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reactivation fee identified in 653—subrule 8.13(7) plus the fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from the ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure.

e. Meet any new requirements instituted since the license lapsed.

20.9(2) *Reactivation for an applicant who has been out of practice for three years.* If an applicant for reactivation has not engaged in the field of genetic counseling or precision medicine in the past three years in any jurisdiction of the United States, the board may, after consultation with an Iowa-licensed genetic counselor, require an applicant to:

a. Successfully complete board-approved continuing education or remediation.

b. Successfully complete a board-approved employment-based monitoring program developed by the genetic counselor's employer, an Iowa-licensed genetic counselor and the board.

c. Successfully complete any other pathway as agreed upon by the board.

653—20.10(272C) Code of ethics. The NSGC Code of Ethics prepared and approved by the National Society of Genetic Counselors shall be utilized by the board as guiding principles in the practice of genetic counseling in this state.

653—20.11(148H,272C) Surrender of license to the board.

20.11(1) A genetic counselor whose ABGC certification has lapsed or whose certification has been revoked by the ABGC shall surrender the genetic counselor's license to the board.

20.11(2) A provisional licensee who loses active candidate status with the ABGC must immediately cease the practice of genetic counseling until the provisional licensee obtains an extension of the provisional license or obtains a new provisional license.

These rules are intended to implement Iowa Code chapters 147, 148, 148H, and 272C.

ARC 8698C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to mandatory reporting and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 22, "Mandatory Reporting," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 22 and adopt a new chapter with the same title. This rulemaking provides guidance for reporting certain instances that are required by statute. Physicians are required to report judgments, settlements, out-of-state discipline, wrongful acts or omissions by another licensee, child abuse, and hospital discipline to the Board within a specified period of time.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22
MANDATORY REPORTING

653—22.1(272C) Mandatory reporting—judgments or settlements. Each licensee, including inactive licensees, will report to the board and provide a copy of every adverse judgment and settlement of a claim against the licensee in a malpractice action within 30 days from the date of said judgment or settlement. Failure to report judgments or settlements within the 30-day period is a basis for disciplinary action.

653—22.2(272C) Mandatory reporting—wrongful acts or omissions.

22.2(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Knowledge" means any information or evidence of reportable conduct acquired by personal observation, from a reliable or authoritative source, or under circumstances causing the licensee to believe that wrongful acts or omissions may have occurred.

"Reportable conduct" means wrongful acts or omissions that are grounds for license revocation or suspension under these rules or that otherwise constitute negligence, careless acts or omissions that demonstrate a licensee's inability to practice medicine competently, safely, or within the bounds of medical ethics, pursuant to Iowa Code sections 272C.3(2) and 272C.4(6) and 653—Chapter 23.

22.2(2) *Reporting requirement.* A report shall be filed with the board, within 30 days from the date the licensee acquires knowledge, when a licensee has knowledge that another person licensed by the board may have engaged in reportable conduct. Failure to report is a basis for disciplinary action.

a. The report must contain the name and address of the licensee who may have engaged in the reportable conduct; the date, time, place, and circumstances in which the conduct occurred; and a statement explaining how knowledge of the reportable conduct was acquired.

b. The board makes the final determination of whether or not wrongful acts or omissions have occurred.

c. A physician is not required to report confidential communication obtained from a physician in the course of and as a result of a physician-patient relationship or when a state or federal statute prohibits such disclosure.

d. A licensee will not be civilly liable for filing a report with the board so long as such report is not made with malice.

653—22.3(272C) Mandatory reporting—disciplinary action in another jurisdiction. Each licensee, including inactive licensees, will report to the board, within 30 days of the action, every license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state; an agency of the United States government; or any country, territory or other jurisdiction. Failure to report in accordance with this rule is a basis for disciplinary action.

653—22.4(272C) Mandatory reporting—child abuse and dependent adult abuse. Each licensee will report child abuse and dependent adult abuse as required by state and federal law. Knowingly and willfully failing to report child abuse and dependent adult abuse is a basis for disciplinary action.

653—22.5(272C) Mandatory reporting—hospital disciplinary action. Each licensee, including inactive licensees, will file with the board a copy of the disciplinary action or voluntary action and a written report describing any disciplinary action taken by a hospital for reasons relating to the physician's professional competence or conduct that results in a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges or any voluntary limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges to avoid an investigation or other hospital disciplinary action. A licensee is not required to report a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's privileges of fewer than 10 days. A licensee is not required to report a voluntary, nondisciplinary limitation or relinquishment of hospital privileges made at the election of the licensee to narrow or change the nature of the licensee's medical practice for reasons not related to competency or conduct. The written report must be filed with the board within 30 days of the date of the action. Failure to file the written report and a copy of the action is a basis for disciplinary action. Reports shall be maintained by the board in accordance with Iowa Code section 272C.6(4).

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

ARC 8705C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to grounds for discipline and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 23, "Grounds for Discipline," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 23 and adopt a new chapter with the same title. This proposed rulemaking provides protection to Iowans by publicly defining required professional standards for physicians. This is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for licensees in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
GROUNDS FOR DISCIPLINE

653—23.1(272C) Grounds for discipline. The board has the authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, 148H, 252J, 272C or 272D or the rules promulgated thereunder. The grounds for discipline apply to physicians, acupuncturists and genetic counselors. The board may impose any of the disciplinary sanctions set forth in 481—Chapter 506, including civil

penalties in an amount not to exceed $10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

23.1(1) Violating any of the grounds for the revocation or suspension of a license as listed in Iowa Code section 147.55, 148.6, 148E.8, 148H.7, 272C.10, or 272C.15.

23.1(2) Professional incompetency. Professional incompetency includes but is not limited to any of the following:

a. Willful or repeated gross malpractice;

b. Willful or gross negligence;

c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the licensee's practice;

d. A substantial deviation by the licensee from the standards of learning or skill ordinarily possessed and applied by other physicians, acupuncturists or genetic counselors in the state of Iowa acting in the same or similar circumstances;

e. A failure by a physician, acupuncturist or genetic counselor to exercise in a substantial respect that degree of care that is ordinarily exercised by the average physician, acupuncturist or genetic counselor in the state of Iowa acting in the same or similar circumstances;

f. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice in the state of Iowa;

g. Failure to meet the acceptable and prevailing standard of care when delegating or supervising services provided by another physician, health care practitioner or individual who is collaborating with or acting as an agent, associate, or employee of the physician, acupuncturist or genetic counselor responsible for the patient's care, whether or not injury results.

23.1(3) Practice harmful or detrimental to the public. Practice harmful or detrimental to the public includes but is not limited to:

a. Failure to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician, acupuncturist or genetic counselor acting in the same or similar circumstances.

b. Practicing without reasonable skill and safety as a result of a mental or physical impairment, chemical abuse or chemical dependency.

c. For acupuncturists only: prescribing, dispensing or administering any controlled substance or prescription medication for human use or performing any treatment or healing procedure not authorized in Iowa Code chapter 148E or 653—Chapter 17.

23.1(4) Unprofessional conduct. Engaging in unethical or unprofessional conduct includes but is not limited to the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or rule 653—13.7(147,148,272C), 653—13.20(147,148), 653—17.10(147,148E,272C) or 653—20.4(148H) as interpreted by the board.

23.1(5) Sexual misconduct. Engaging in sexual misconduct includes but is not limited to engaging in conduct set out at 653—subrule 13.7(4) or 13.7(6) as interpreted by the board.

23.1(6) Substance abuse. Substance abuse includes but is not limited to excessive use of alcohol, drugs, narcotics, chemicals or other substances in a manner that may impair a licensee's ability to practice the profession with reasonable skill and safety.

23.1(7) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose includes but is not limited to:

a. Self-prescribing or self-dispensing controlled substances.

b. Prescribing or dispensing controlled substances to members of the licensee's immediate family.

(1) Prescribing or dispensing controlled substances to members of the licensee's immediate family is allowable for an acute condition or on an emergency basis when the licensee conducts an examination, establishes a medical record, and maintains proper documentation.

(2) Immediate family includes the physician's spouse or domestic partner and either of the physician's, spouse's, or domestic partner's parents, stepparents or grandparents; the physician's natural or adopted children or stepchildren and any child's spouse, domestic partner or children; the siblings of

the physician or the physician's spouse or domestic partner and the sibling's spouse or domestic partner; or anyone else living with the physician.

23.1(8) Physical or mental impairment. Physical or mental impairment includes but is not limited to any physical, neurological or mental condition that may impair a licensee's ability to practice the profession with reasonable skill and safety. Being adjudged mentally incompetent by a court of competent jurisdiction automatically suspends a license for the duration of the license unless the board orders otherwise.

23.1(9) Felony criminal conviction. Being convicted of a felony in the courts of this state, another state, the United States, or any country, territory or other jurisdiction, as defined in Iowa Code section 148.6(2)*"b."* A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence of the felony conviction.

23.1(10) Violation of the laws or rules governing the practice of medicine, acupuncture or genetic counseling of this state; another state; the United States; or any country, territory or other jurisdiction. Violation of the laws or rules governing the practice of medicine, acupuncture or genetic counseling includes but is not limited to willful or repeated violation of the provisions of these rules or the provisions of Iowa Code chapter 147, 148, 148E, 148H or 272C or other state or federal laws or rules governing the practice of medicine.

23.1(11) Violation of a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violation of the terms and provisions of a consent agreement or settlement agreement entered into between a licensee and the board.

23.1(12) Violation of an initial agreement or health contract entered into with the Iowa professional health programs (IPHP).

23.1(13) Failure to comply with an evaluation order. Failure to comply with an order of the board requiring a licensee to submit to evaluation under Iowa Code section 148.6(2)*"h"* or 272C.9(1).

23.1(14) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes but is not limited to an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery or osteopathic medicine and surgery, by an acupuncturist, or by a genetic counselor.

23.1(15) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice acupuncture, medicine and surgery, osteopathic medicine and surgery, or genetic counseling in this state and includes false representations of material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for a license in this state.

23.1(16) Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes but is not limited to a licensee's having made misleading, deceptive or untrue representations as to the acupuncturist's, physician's or genetic counselor's competency to perform professional services for which the licensee is not qualified to perform by education, training or experience.

23.1(17) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making known to the public information or intention that is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements that may consist of but are not limited to:

a. Inflated or unjustified claims that lead to expectations of favorable results;

b. Self-laudatory claims that imply that the licensee is skilled in a field or specialty of practice for which the licensee is not qualified;

c. Representations that are likely to cause the average person to misunderstand; or

d. Extravagant claims or claims of extraordinary skills not recognized by the profession.

23.1(18) Obtaining any fee by fraud or misrepresentation.

23.1(19) Acceptance of remuneration for referral of a patient to other health professionals in violation of the law or medical ethics.

23.1(20) Knowingly submitting a false report of continuing education or failure to submit the required reports of continuing education.

23.1(21) Knowingly aiding, assisting, procuring, or advising a person in the unlawful practice of acupuncture, medicine and surgery, or osteopathic medicine and surgery.

23.1(22) Failure to report disciplinary action. Failure to report a license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state; an agency of the United States government; or any country, territory or other jurisdiction within 30 days of the final action by such licensing authority. A stay by an appellate court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report will be expunged from the records of the board.

23.1(23) Failure to report voluntary agreements. Failure to report any voluntary agreement to restrict the practice of acupuncture, medicine and surgery, osteopathic medicine and surgery, or genetic counseling entered into with this state; another state; the United States; an agency of the federal government; or any country, territory or other jurisdiction.

23.1(24) Failure to notify the board within 30 days after occurrence of any settlement or adverse judgment of a malpractice claim or action.

23.1(25) Failure to file the reports required by rule 653—22.2(272C) within 30 days concerning wrongful acts or omissions committed by another licensee.

23.1(26) Failure to comply with a valid subpoena issued by the board pursuant to Iowa Code sections 17A.13 and 272C.6, 653—subrule 24.2(6), and 481—Chapter 506.

23.1(27) Failure to submit to a board-ordered mental, physical, clinical competency, or substance abuse evaluation or drug or alcohol screening.

23.1(28) The inappropriate use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a disability, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp that is adopted by the disabled person for all purposes requiring a signature and that is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the presence of the disabled person.

23.1(29) Maintaining any presigned prescription that is intended to be completed and issued at a later time.

23.1(30) Failure to comply with the recommendations issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, or with the protocols established pursuant to Iowa Code chapter 139A.

23.1(31) Failure by a physician with HIV or HBV who practices in a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by a hospital under Iowa Code section 139A.22(1) or to an expert review panel established by the department of health and human services under Iowa Code section 139A.22(3).

23.1(32) Failure by a physician with HIV or HBV who practices outside a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by the department of health and human services under Iowa Code section 139A.22(3).

23.1(33) Failure by a physician subject to the reporting requirements of subrules 23.1(31) and 23.1(32) to comply with the recommendations of an expert review panel established by the department of health and human services pursuant to Iowa Code section 139A.22(3), with hospital protocols established pursuant to Iowa Code section 139A.22(1), or with health care facility procedures established pursuant to Iowa Code section 139A.22(2).

23.1(34) Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this rule shall follow the procedures set forth in Iowa Code chapter 252J and 653—Chapter 15.

23.1(35) Fraud in the practice. Fraud in the practice includes but is not limited to any misleading, deceptive, untrue or fraudulent representation in the practice of acupuncture, medicine or surgery, or genetic counseling, made orally or in writing, that is contrary to the licensee's legal or equitable duty,

trust, or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare, and potentially injurious to another. Proof of actual injury need not be established.

23.1(36) Improper management of medical records. Improper management of medical records includes but is not limited to failure to maintain timely, accurate, and complete medical records.

23.1(37) Failure to transfer medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.

23.1(38) Failure to respond to or comply with a board investigation initiated pursuant to Iowa Code section 272C.3 and rule 653—24.2(17A,147,148,272C).

23.1(39) Failure to comply with the direct billing requirements for anatomic pathology services established in Iowa Code section 147.106.

23.1(40) Failure to submit an additional completed fingerprint card and applicable fee, within 30 days of a request made by board staff, when a previous fingerprint submission has been determined to be unacceptable.

23.1(41) Failure to respond to the board or submit continuing education materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

23.1(42) Failure to respond to the board or submit requested mandatory training for identifying and reporting abuse materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

23.1(43) Nonpayment of state debt as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 272D and 653—Chapter 12.

23.1(44) Voluntary agreements. The board may take disciplinary action against a physician if that physician has entered into a voluntary agreement to restrict the practice of medicine in another state, district, territory, or country.

a. The board will use the following criteria to determine if a physician has entered into a voluntary agreement within the meaning of Iowa Code section 148.12 and this rule.

(1) The voluntary agreement was signed during or at the conclusion of a disciplinary investigation, or to prevent a matter from proceeding to a disciplinary investigation.

(2) The agreement includes any or all of the following:

1. Education or testing that is beyond the jurisdiction's usual requirement for a license or license renewal.

2. An assignment beyond what is required for license renewal or regular practice (e.g., adoption of a protocol, use of a chaperone, completion of specified continuing education, or completion of a writing assignment).

3. A prohibition or limitation on practice privileges (e.g., a restriction on prescribing or administering controlled substances).

4. Compliance with an educational plan.

5. A requirement that surveys or reviews of patients or patient records be conducted.

6. A practice monitoring requirement.

7. A special notification requirement for a change of address.

8. Payment that is not routinely required of all physicians in that jurisdiction, such as a civil penalty, fine, or reimbursement of any expenses.

9. Any other activity or requirements imposed by the board that are beyond the usual licensure requirements for obtaining, renewing, or reinstating a license in that jurisdiction.

b. A certified copy of the voluntary agreement shall be considered prima facie evidence.

23.1(45) Performing or attempting to perform any surgical or invasive procedure on the wrong patient or at the wrong anatomical site or performing the wrong surgical procedure on a patient.

23.1(46) Violation of the standards of practice for medical directors who delegate and supervise medical aesthetic services performed by nonphysician persons at a medical spa as set out in rule 653—13.8(148,272C).

23.1(47) Failure to provide the board, within 14 days of a request by the board as set out in 653—paragraph 13.8(5)*"l,"* written verification of the education and training of all nonphysician persons who perform medical aesthetic services at a medical spa.

23.1(48) Failure to file with the board a written report and a copy of the hospital disciplinary action within 30 days of any hospital disciplinary action or the licensee's voluntary action to avoid a hospital investigation or hospital disciplinary action as required by rule 653—22.5(272C).

23.1(49) Unethical conduct of acupuncturist. The Code of Ethics (2016) prepared and approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) is utilized by the board as guiding principles in the practice of acupuncture in this state. Unethical conduct in the practice of acupuncture includes but is not limited to:

a. Failing to provide patients with the information required in Iowa Code section 148E.6 or providing false information to patients;

b. Disclosing confidential information about a patient without proper authorization; or

c. Abrogating the boundaries of acceptable conduct in the practice of acupuncture established by the profession that the board deems appropriate for ensuring that acupuncturists provide Iowans with safe and healthful care.

This rule is intended to implement Iowa Code chapters 17A, 147, 148, 148E, 148H, 272C and 272D.

ARC 8697C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rulemaking related to complaints and investigations and providing an opportunity for public comment

The Board of Medicine hereby proposes to rescind Chapter 24, "Complaints and Investigations," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 24 and adopt a new chapter with the same title. This rulemaking is intended to provide guidance on complaint and investigation procedures. The rulemaking ensures that licensees are aware of the investigative process and understand their rights and responsibilities related to the complaint and investigative process. The rulemaking sets forth information such as the process for submitting a complaint, procedure to issue investigatory subpoenas, initiation of the peer review process, and appearances by the licensee before the Board.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
COMPLAINTS AND INVESTIGATIONS

653—24.1(17A,147,148,272C) Complaints.

24.1(1) *Form and content of the complaint.* A complaint will be made in the form deemed acceptable by the board. The complaint will contain the following information:

a. The full name, address and telephone number of the complainant, except in instances in which the identity of the complainant is unknown.

b. The full name, address and telephone number, if known, of the licensee.

c. A clear and accurate statement of the facts that apprises the board of the allegations against the licensee.

24.1(2) *Place and time of filing of the complaint.* A written complaint may be delivered in person, by mail or electronically to the board office. The office address is Iowa Board of Medicine, 6200 Park Avenue, Des Moines, Iowa 50321.

24.1(3) *Immunity.* A person is not civilly liable as a result of filing a report or complaint with the board or peer review committee, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information that constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, such immunity from civil liability is not applicable if such act is done with malice.

653—24.2(17A,147,148,272C) Processing complaints and investigations.

24.2(1) *Complaint and investigative files.* Board staff shall open a complaint file upon receiving a complaint or other appropriate information or upon a motion of the board. A complaint file becomes an investigative file once an investigation is ordered.

a. If the board does not have legal jurisdiction over a matter, staff may close the complaint file administratively without investigation or review by the board. All other complaints will be sent to the complaint review committee.

b. A complaint file will be labeled as such and is not a public record. A complaint file will become part of the licensee's history with the board.

c. Any time an investigation is ordered, a complaint file will be relabeled as an investigative file. An investigative file is not a public record. The investigative file will become part of the licensee's history with the board and may be shared with another licensing authority upon request.

24.2(2) *Complaint review committee.*

a. The complaint review committee includes the medical advisor, executive director, general counsel for the board, and chief investigator.

b. The complaint review committee reviews each complaint the board has received and takes one of the following four actions:

(1) Close a complaint file administratively for any of these reasons:

1. The board does not have legal jurisdiction over the matter;

2. The case involves a matter that the board is already addressing; or

3. The case is appropriate for referral to the board's Iowa physician health program, and investigation is not warranted.

(2) Recommend to the board's screening committee that the board close the complaint file without investigation.

(3) Request a letter of explanation from the physician, medical records, or both.

(4) Request a full investigation.

c. The complaint review committee uses the following to guide its decision making:

(1) Serious public safety issues include but are not limited to the following:

1. A clear violation of the laws and rules governing the practice of medicine, genetic counseling, or acupuncture, as applicable;

2. Significant investigative history that raises serious concerns about the licensee's ability to practice in a competent and safe manner;

3. Significant investigative history that raises serious concerns that the licensee has engaged in a pattern of unprofessional conduct or disruptive behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff;

4. Serious quality of care cases that include severe patient harm, a pattern of inappropriate treatment, or serious medical errors;

5. Serious criminal conduct;

6. Substance abuse or other impairment that significantly impacts the licensee's ability to practice the licensee's respective practice in a competent and safe manner;

7. Sexual misconduct;

8. Severe unprofessional conduct or disruptive behavior;

9. Disciplinary action by another regulatory authority; or

10. Unlicensed practice of medicine, genetic counseling, or acupuncture.

(2) Less serious public safety issues include but are not limited to the following:

1. Less serious quality of care cases that do not involve serious patient harm and are isolated occurrences rather than a part of a pattern of inappropriate treatment or serious medical errors;

2. A single incident involving a billing dispute;

3. A single incident involving rude behavior or personality conflicts;

4. A single incident of communication problems; or

5. Poor recordkeeping practices that are not repeated or ongoing in nature and do not significantly affect patient care.

d. The board may at any time reopen for review and reconsideration any complaint or investigative file that has been closed administratively.

e. The complaint review committee will indicate high-priority cases when they are assigned for investigation. The committee may provide recommendations to investigators regarding the nature of investigation to be completed. The medical advisor will provide medical advice to the investigators as part of the investigative process.

24.2(3) *Screening committee.* The screening committee will review the recommendations of the complaint review committee and take one of the following actions:

a. Recommend to the board that the complaint file be closed without investigation.

b. Request a letter of explanation from the physician, medical records, or both.

c. Review the materials acquired pursuant to paragraph 24.2(3)*"b"* and recommend to the board that the investigative file be closed, with or without issuing an informal letter.

d. Request an investigation for board review.

24.2(4) *Board action.*

a. The board will review the screening committee's recommendations and take one of the following actions:

(1) Close the complaint file without investigation. The board will notify the complainant and the licensee of the decision.

(2) Close the investigative file that has been partially or fully investigated, with or without issuing an informal letter. The board will notify the complainant and the licensee of the decision.

(3) Request further investigation.

b. The board may reconsider and reopen a closed complaint or investigative file at a later date should it be deemed appropriate.

24.2(5) *Investigations.*

a. Complainants. At the time an investigation is opened, the complainant will be sent a letter with the name of the investigator assigned to the case and the investigator's contact information and a statement encouraging the complainant to submit any further information that would assist the investigator with the case.

(1) The complainant may request a meeting with the investigator prior to the completion of the investigation.

(2) The complainant will be informed of the confidentiality of the investigative information as provided in subrule 24.2(8).

(3) The complainant may contact the chief investigator with questions or concerns about the investigation.

b. Investigative subpoenas.

(1) Issuance of an investigative subpoena. The executive director or a designee may, upon the written request of a board investigator or upon the executive director's own initiative, subpoena books, papers, records, and other real evidence necessary for a board investigation.

(2) Request for subpoena. A written request for a subpoena will contain the following:

1. The name and address of the person to whom the subpoena will be directed;
2. A specific description of the books, papers, records or other real evidence requested;
3. An explanation of why the evidence sought to be subpoenaed is necessary for the board to determine whether it should institute a contested case proceeding; and
4. In the case of a subpoena request for mental health records, confirmation that the conditions described in subparagraph 24.2(5)*"b"*(4) have been satisfied.

(3) Contents of subpoena. Each subpoena will contain the following:

1. The name and address of the person to whom the subpoena is directed;
2. A description of the books, papers, records or other real evidence requested;
3. The date, time and location for production or inspection and copying;
4. The time within which a motion to quash or modify the subpoena must be filed;
5. The signature, address and telephone number of the executive director or designee;
6. The date of issuance; and
7. A return of service attached to the subpoena.

(4) Subpoena for mental health records. A subpoena for mental health records shall meet the requirements of subparagraph 24.2(5)*"b"*(3). The board shall document the following prior to the issuance of a subpoena for mental health records:

1. The nature of the complaint reasonably justifies the issuance of a subpoena;
2. Adequate safeguards have been established to prevent unauthorized disclosure;
3. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
4. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

(5) Motion to quash or modify subpoena.

1. Any person who is adversely affected by compliance with the subpoena and desires to challenge the subpoena must file with the board a motion to quash or modify the subpoena within 14 days of service, or before if the time specified is less than 14 days. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.
2. Hearing on motion. Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the administrative law judge or the board. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.
3. Appeal of decision on motion. A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.
4. Final agency action. If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified that the investigation has been concluded with no formal action or there is a final decision in the contested case.

c. Licensee response. Before a contested case begins, the investigator will attempt to reach the licensee at the licensee's listed address to allow the licensee to respond to the allegations. If the licensee

cannot be found there, reasonable efforts to locate the licensee will be made. If the licensee cannot be located, the investigation will proceed without the licensee's response, and the findings will be sent to the board. Contact and response from the licensee can be in writing or through a personal interview.

d. Investigative report. Upon completion of an investigation, the investigator will prepare a report for the board's consideration. The report will set forth the information obtained in the course of the investigation and the response, if any, of the licensee.

e. Board review. The board will review the investigative record, discuss the case, and take one of the following actions:

(1) Close the investigative file without action. The board will notify the complainant and the licensee of the decision. The board may reconsider and reopen a closed complaint or investigative file at a later date should it be deemed appropriate.

(2) Request further investigation, including peer review.

(3) Meet with the licensee. The board or the licensee may request that the licensee appear before the board to discuss a pending investigation. The board has discretion on whether to grant a licensee's request for an appearance. By electing to participate in the appearance, the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that:

1. Board members have personally investigated the case, and
2. Board members have combined investigative and adjudicative functions.

If the executive director or director of legal affairs participates in the appearance, the licensee further waives any objection to having the executive director or director of legal affairs assist the board in the contested case proceeding.

(4) Issue an informal letter of warning or education. If the board concludes that there is not probable cause to file disciplinary charges, the board may issue the licensee an informal letter of warning or education. A letter of warning or education is an informal communication between the board and the licensee and is not formal disciplinary action or a public document.

(5) File a statement of charges. If the board determines that there is probable cause for taking formal disciplinary action against a licensee, the board shall file a statement of charges, thereby commencing a contested case proceeding.

Prior to the initiation of formal disciplinary charges in a case involving the supervision of a physician assistant, the board shall forward a copy of the investigative report to the board of physician assistants for its advice and recommendation. The board of physician assistants shall respond within six weeks or sooner if requested by the board of medicine. The board of medicine shall consider the advice and recommendation of the board of physician assistants.

(6) Request a combined statement of charges and settlement agreement. At the board's discretion, the board and the licensee may enter into a combined statement of charges and settlement agreement to resolve a contested case proceeding.

24.2(6) *Licensee-patient privileged communications.* The privilege of confidential communication between the recipient and the provider of health care services do not extend to afford confidentiality to medical records maintained by or on behalf of the subject of an investigation by the board, or records maintained by any public or private agency or organization, which relate to a matter under investigation by the board. No provision of Iowa Code section 622.10, except as it relates to an attorney of the licensee, or the stenographer or confidential clerk of the licensee's attorney, shall be interpreted to restrict access by the board or its staff or agents to information sought in an investigation being conducted by the board.

24.2(7) *Investigation of malpractice lawsuits, judgments and settlements.* The board will review reports received from insurance carriers and licensees involving malpractice lawsuits, adverse judgments, and settlements. The board may choose to investigate such reports in the same manner as is prescribed in these rules for the review and investigation of other complaints to determine whether there is probable cause under applicable statutes or administrative rules for licensee discipline.

24.2(8) *Confidentiality of investigative information.* All investigative information gathered by the board or its employees or agents, including peer reviewers, is confidential and privileged. The

information cannot be obtained through discovery, subpoena, or other legal means except by the licensee and the board. This information is not admissible in any judicial or administrative proceeding, except in cases involving licensee discipline. However, the board's statement of charges, settlement agreements, or decisions in disciplinary proceedings are public records.

653—24.3(272C) Peer review. The board may assign any case to peer review for evaluation of the professional services rendered by the licensee and report to the board.

24.3(1) *Registration of peer reviewers.* The board may register peer reviewers by maintaining a list of peer reviewers in the board office. The board will enter into a contract with peer reviewers to provide peer review services.

24.3(2) *Case referral for peer review.* The board or board staff will determine which peer reviewer(s) will review a case and what investigative information is referred to a peer reviewer.

24.3(3) *Board assistance to peer reviewers.* The board may provide investigatory and related services to assist the peer reviewer(s).

24.3(4) *Confidentiality.* Peer reviewers shall observe the confidentiality requirements imposed by Iowa Code section 272C.6(4).

24.3(5) *Liability, defense and indemnity.* Peer reviewers are not liable for acts, omissions or decisions made in connection with service on the peer review committee. However, such immunity from civil liability does not apply if such act is done with malice. Peer reviewers are to be provided a defense by the state for civil lawsuits related to board peer review and will be indemnified for all such judgments or settlements as provided by applicable law and administrative rules.

24.3(6) *Written peer review report.* Peer reviewers will review the information provided by the board and provide a written report to the board.

a. The written report will contain a statement of facts, an opinion of the peer reviewers whether the licensee violated the standard of care, and the rationale supporting the opinion.

b. The written report shall be signed by all peer reviewers concurring in the report.

c. If the peer reviewers find that they are unable to review the case, the investigative information shall be returned to the board.

653—24.4(272C) Order for physical, mental, or clinical competency evaluation. All licensees will undergo a physical, mental, or clinical evaluation as directed by the board. This evaluation may be ordered if there is probable cause of a mental, physical, or behavioral condition, including professional misconduct, disruptive behavior, or substance abuse. The evaluation may include various assessments for disruptive behavior or neuropsychological, psychiatric, sexual misconduct, or substance abuse evaluations. Clinical competency evaluations can be ordered if there is probable cause of professional incompetence. All evaluation orders and related information are confidential according to Iowa Code section 272C.6(4). The licensee will bear the cost, and orders will be delivered via personal service or certified mail, return receipt requested.

24.4(1) *Content of order.* A board order shall include the following items:

a. Probable cause. A showing by the board that there is probable cause to order the licensee to complete an evaluation.

b. Nature of evaluation or screening. A description of the type of evaluation or screening that the licensee needs to complete.

c. Evaluation facility. The name and address of the examiner or evaluation or treatment or screening facility that the board has identified to perform the evaluation.

d. Scheduling the evaluation. The amount of time in which the licensee must schedule the required evaluation.

e. Completion of the evaluation. The amount of time in which the licensee must complete the evaluation.

f. Board release. A requirement that the licensee sign all necessary releases for the board to communicate with the evaluator or the evaluation or treatment program and to obtain any reports generated by the program.

24.4(2) *Alternatives.* Following issuance of the evaluation order, the licensee may request additional time to schedule or complete the evaluation or to request the board to approve an alternative evaluator or treatment facility. The board will determine whether to grant such a request.

24.4(3) *Objection to order.* A licensee who is the subject of a board evaluation order and who objects to the order may file a request for hearing. The request shall be filed within 14 days of issuance of the evaluation order. A licensee who fails to timely file a request for hearing to object to an evaluation order waives any future objection to the evaluation order in the event formal disciplinary charges are filed for failure to comply with the evaluation order or on any other grounds. The request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing will be considered a contested case proceeding and will be governed by the provisions of 653—Chapter 25.

24.4(4) *Closed hearing.* Any hearing on an objection to the board order will be closed pursuant to Iowa Code section 272C.6(1).

24.4(5) *Order and reports confidential.* An evaluation order and any subsequent evaluation reports issued in the course of a board investigation are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information related to an evaluation order will be provided to the licensee in the event the licensee files an objection under 24.4(3), in order to allow the licensee an opportunity to prepare for hearing.

24.4(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections will be waived as to the admissibility of the licensee's testimony or evaluation reports on the grounds that they constitute privileged communication. The medical testimony or examination reports will not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

24.4(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, clinical competency or substance abuse evaluation or alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

ARC 8694C

MEDICINE BOARD[653]

Notice of Intended Action

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

The Board of Medicine hereby proposes to rescind Chapter 26, "Reinstatement After Disciplinary Action," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking proposes to rescind Chapter 26 and adopt a new chapter with the same title. This rulemaking provides guidance and the process for reinstatement for licensees who have received disciplinary action from the Board. When a licensee has prior disciplinary action from the Board, there are often additional requirements that must be met before a license will be reinstated. These additional requirements help ensure the physicians are competent and safe to practice.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

The Department of Inspections, Appeals, and Licensing received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 14, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

January 14, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
January 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearing.

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 653—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
REINSTATEMENT AFTER DISCIPLINARY ACTION

653—26.1(17A) Reinstatement. Any person whose license has not been permanently suspended or revoked by the board may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

26.1(1) If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board order or the date of voluntary surrender.

26.1(2) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the respondent's license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement are subject to the same rules of procedure as other cases before the board.

26.1(3) An application for reinstatement shall allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

26.1(4) At the board's discretion, the board and the licensee may agree to enter into a reinstatement order by agreement, in lieu of a formal reinstatement hearing before the board.

26.1(5) A reinstatement order must be based upon the affirmative vote of a quorum of the board. The reinstatement order is public information pursuant to 481—Chapter 506.

26.1(6) A physician seeking reinstatement under this rule whose license became inactive during the period of suspension or revocation is also required to complete the reactivation process set forth in rule 653—9.13(147,148) or 653—9.14(147,148).

This rule is intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

ARC 8576C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to maternal deaths and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 5, "Maternal Deaths," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

The purpose of this chapter is to allow for the procurement and timely confidential review of maternal death and birth records, which inform death prevention recommendations and efforts.

The State Mortality Review Committee (2024 Iowa Acts, Senate File 2385) prompted the centralization of death review teams. Chapter 5 is proposed to be rescinded and centralized with 641—

Chapters 90, 91 and 92. Procurement and review will continue to occur as part of this centralized chapter and as a subcommittee of the State Mortality Review Committee.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision because this chapter is proposed to be rescinded.

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 January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
321 East 12th Street
Des Moines, Iowa 50309
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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 5**.

ARC 8669C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to state plumbing code and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 25, "State Plumbing Code," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 105 and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 25. This rulemaking implements Iowa Code section 105.4 in accordance with the goals and directives of Executive Order 10. Iowa Code section 105.4 requires that the Plumbing and Mechanical Systems Board establish by rule a plumbing installation code governing the installation of plumbing systems in the state. The Board is to adopt the most current version of the Uniform Plumbing Code (UPC) and may adopt amendments to the UPC so long as those amendments do not conflict with the fire safety rules and standards promulgated by the Department.

This rulemaking implements the aforementioned Iowa Code section by adopting the most current version of the UPC as the state plumbing code, with amendments. The Board took into consideration informal public comment provided during Board meetings in proposing these rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments at that time. However, stakeholders provided input prior to the publication of the Regulatory Analysis and that input was taken into consideration when drafting this rulemaking.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9 to 9:30 a.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1 to 1:30 p.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
STATE PLUMBING CODE

641—25.1(105) Adoption. Sections 101 and 102, Chapters 2 to 17 and Appendices A and M of the Uniform Plumbing Code (UPC), 2024 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4. Portions of this chapter reproduce excerpts from the 2024 International Plumbing Code; Copyright 2023; Washington, D.C.: International Code Council www.ICCSAFE.org. Such excerpts are reproduced with permission, all rights reserved.

641—25.2(105) Applicability. The provisions of the UPC, as adopted and amended by this chapter, are applicable to the plumbing in buildings or on premises in Iowa. Local jurisdictions may not adopt other

plumbing codes. Local jurisdictions may adopt additional amendments provided they are stricter than the UPC as amended by this chapter and copies of any local amendments are provided to the board.

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the UPC, 2024 Edition, unless the provisions conflict with 661—Chapter 226, in which case 661—Chapter 226 governs.

641—25.4(105) Amendments to Uniform Plumbing Code. The UPC, as adopted by reference in rule 641—25.1(105), is amended as follows:

25.4(1) The following amendment apply to UPC Chapter 1: Section 101.2 Scope. Modify the section by adding the following sentence to the end of the section: "Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code are not administered by the Plumbing and Mechanical Systems Board or the state."

25.4(2) The following amendments shall apply to UPC Chapter 3:

a. Section 301.5 Alternative Engineered Design. Modify the section by adding the following sentence to the end of the section: "No engineered single-stack drainage system shall be installed."

b. Section 309.6 Dead Legs. Modify the section by adding the following sentence to the end of the section: "The authority having jurisdiction can determine the method of flushing."

c. Subsection 314.4.1 Installation of Thermoplastic Pipe and Fittings. Trench width for thermoplastic pipe shall be limited to six times the outside diameter of the piping at the base and thermoplastic piping be bedded in not less than 4 inches (102 mm) of aggregate bedding material supporting the pipe. Initial backfill shall encompass the pipe, and aggregate material shall be three-eighths (3/8) inch p-gravel or 1-inch clean class one bedding.

25.4(3) The following amendments shall apply to UPC Chapter 4:

a. Section 402.5 Setting. Modify the section by adding the following sentence to the end of the section that begins "Exception:": The installation of paper dispensers, sanitary napkin disposal unit or accessibility grab bars shall not be considered obstructions.

b. Section 407.3 Limitation of Hot Water Temperature for Public Lavatories. Modify the section by adding the following sentence to the end of the section: "These devices shall be installed at or as close as possible to the point of use."

c. Section 408.12 Showers. Create a new Section 408.12 stating: "Limitation of Hot Water Temperature of Pet Grooming Stations. The maximum hot water temperature discharging from pet grooming stations shall be limited to 120ºF (49ºC) and the maximum temperature regulated by one of the following means, which shall be installed at or as close as possible to the point of use:

"(1) A limiting device conforming to ASSE1070, ASMEA112.1070, CSAB125.70, or CSAB125.3.

"(2) A water heater conforming to ASSE 1084."

d. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Modify the section by adding the following sentence to the end of the section: "These devices shall be installed at or as close as possible to the point of use."

e. Section 410.3 Limitation of Water Temperature in Bidets. Modify the section by adding the following sentence to the end of the section: "These devices shall be installed at or as close as possible to the point of use."

f. Section 416.5 Drain. Modify the section by deleting the last sentence, which states: "Where a drain is provided, the discharge shall be in accordance with Section 811.0."

g. Section 418.3 Location of Floor Drains. Modify the section by adding the following to the end of the section: "(5) Rooms equipped with a water heater."

h. Section 422.1 Fixture Count.

Modify the section by deleting the first paragraph and inserting the following in lieu thereof: "Plumbing fixtures shall be provided in each building for the type of building occupancy and in the minimum number shown in Table 403.1 of the International Plumbing Code, reprinted here as Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with the

state building code or the authority having jurisdiction. Required public facilities shall be designated by a legible sign for each sex and signs be readily visible and located near the entrance to each toilet facility."

i. Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof.

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures[d]	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes[d]	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts[d]	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		Gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750		—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums[d]	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Passenger terminals and transportation facilities[d]	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
		Places of worship and other religious services[d]	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
1	Assembly	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder	1 per 40 for the first 1,520 and 1 per 60 for the remainder	1 per 200	1 per 150	—	1 per 1,000	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
			exceeding 1,500	exceeding 1,520					
	(cont'd)	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink[e]
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink
5	Institutional	Custodial care facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes	1 per room[c]		1 per room[c]		1 per room[c]	1 per 100	1 service sink
		Employees in hospitals and nursing homes[b]	1 per 25		1 per 35		—	1 per 100	
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 100	
		Prisons[b]	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
		Reformatories, detention centers, and correctional centers[b]	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers[b]	1 per 25		1 per 35		—	1 per 100	—
5			1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink[e]
		Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
7	Residential	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
	Residential	One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit		1 kitchen sink per dwelling unit; 1 automatic clothes washer

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
									connection per dwelling unit
	(cont'd)	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouse and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		—	1 per 1,000	1 service sink

[a] The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.

[b] Toilet facilities for employees shall be separate from facilities for inmates or care recipients.

[c] A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted provided that each patient sleeping unit has direct access to the toilet room and provision for privacy for the toilet room user is provided.

[d] The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

[e] For business and mercantile classifications with an occupant load of 15 or fewer, service sinks will not be required.

[*]Excerpted (with modifications) from Table 403.1 of the 2018 International Plumbing Code; Copyright 2017; Washington, D.C.: ICC. Reproduced with permission. All rights reserved. www.ICCSAFE.org

j. Insert the following text at the end of Chapter 4:

"422.8 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies and not be substituted for more than 50 percent of the required water closets in all other occupancies. (Reprinted from the 2021 International Plumbing Code section 424.2)"

25.4(4) The following amendments shall apply to UPC Chapter 6:

a. Section 603.4.8 Drain Lines. Modify the section by adding the following language to the end of the last sentence in the section: "or in accordance with the manufacturer's drain-sizing chart for installation."

b. Section 609.1 Installation. Insert the following: "Building supply yard piping shall be not less than 60 inches below earth cover."

c. Section 609.12 Pipe Insulation. Delete Sections 609.12 through 609.12.2 and insert the following in lieu thereof:

"Section 609.12 Pipe Insulation. Insulation of domestic hot water piping shall be in accordance with the state applicable energy conservation code."

d. Section 611.4 Sizing of Residential Softeners. Modify the section by adding the following to the end of the last sentence in the section: "or as specified in the manufacturer's installation instructions."

e. Section 612 Residential Fire Sprinkler Systems. Delete sections 612.0 through 612.7.2.

25.4(5) The following amendments shall apply to UPC Chapter 7:

a. Section 702.1 Trap Size. Table 702.1 Note 9. Modify this note by deleting "a maximum shower size of 36 inches (914 mm) in width and 60 inches (1524 mm) in length" and inserting the following in lieu thereof: "showers having only one shower head rated at a maximum of 2.5 gpm."

b. Section 710.1 Backflow Protection. Modify the section by adding the following sentences to the end of the section: "The requirement for the installation of a backwater valve shall apply only when determined necessary by the Authority Having Jurisdiction based on local conditions. When a valve is required by the Authority Having Jurisdiction, it will be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required."

25.4(6) The following amendments shall apply to UPC Chapter 8:

a. Section 807.3 Domestic Dishwashing Machine. Modify the section by deleting the section and inserting the following language in lieu thereof: "No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher."

b. Section 814.5 Point of Discharge. Delete Section 814.5 and insert the following in lieu thereof:

"Section 814.5 Point of Discharge. Air-conditioning condensate waste pipes shall connect indirectly to a properly trapped fixture, floor drain, or open sight drain, or where permitted in Section 814.6, to the drainage system through an air gap or air break to trapped and vented receptors, dry wells, leach pits, sump pump, the tailpiece of plumbing fixtures or indirectly to the building storm sewer through a roof drain, or indirectly to the building storm sewer through a roof drain. A condensate drain shall be trapped in accordance with appliance manufacturer's instructions or as approved."

25.4(7) The following amendments shall apply to UPC Chapter 9:

a. Section 901.1 Applicability. Modify the section by adding the following sentence to the end of the section: "No engineered single-stack drainage systems shall be installed."

b. Section 906.1 Roof Termination. Modify the section by deleting the last sentence.

c. Section 908.2.2 Size. Delete the second sentence in this section and insert the following new sentence in lieu thereof: "The wet vent shall be not less than 2 inches (50 mm) in diameter for 6 drainage fixture units (dfu) or less, and not less than 3 inches (80 mm) in diameter for 7 dfu or more."

25.4(8) The following amendments shall apply to UPC Chapter 10:

a. Table 1002.2 Horizontal Lengths of Trap Arms. Delete the table and insert the following table in lieu thereof:

TABLE 1002.2
Horizontal Lengths of Trap Arms
(Except for Water Closets and Similar Features)[1,2]

Trap Arm Diameter (inches)	Distance Trap to Vent Minimum (inches)	Length Maximum (feet)
1¼	2½	5
1½	3	6
2	4	8
3	6	12
4	8	12
Exceeding 4	2 × Diameter	12

For SI units: 1 inch = 25.4 mm

Notes:

[1]Maintain ¼ inch per foot slope (20.8 mm/m).

[2]The developed length between the trap of a water closet or similar fixture (measured from the top of the closet flange to the inner edge of the vent) and its vent shall not exceed 6 feet (1829 mm).

b. Section 1014.1.3 Food Waste Disposers and Dishwashers. Modify the section by deleting the second sentence and inserting the following in lieu thereof: "Commercial food waste disposers shall discharge into the building's drainage system in accordance with the requirements of the Authority Having Jurisdiction."

25.4(9) The following amendments shall apply to UPC Chapter 12:

a. Sections 1205.0 through 1205.2 Authority to Render Gas Service. Delete the sections.

b. Sections 1207.0 and 1207.1 Temporary Use of Gas. Delete the sections.

c. Subsection 1208.5.3.5 Corrugated Stainless Steel Tubing. Delete subsection 1208.5.3.5 and insert the following in lieu thereof:

Subsection 1208.5.3.5 Corrugated Stainless Steel Tubing. Only CSST with an arc-resistant jacket or covering system listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed, in accordance with the terms of its approval, the conditions of listing, the manufacturer's instructions and this code, including electrical bonding requirements in Section 1211.2. CSST shall not be used for through-wall penetrations from the point of delivery of the gas supply to the inside of the structure and not be installed in locations where subject to physical damage unless protected in an approved manner.

d. Section 1211.3 Arc-Resistant Jacketed CSST. Delete the section.

25.4(10) The following amendment shall apply to UPC Chapter 13:

Section 1306.3 Report Items. Modify the section by deleting "Authority Having Jurisdiction" and inserting "responsible facility authority" in lieu thereof.

641—25.5(105) Backflow prevention with containment. Cities with populations of 15,000 or greater as determined by the 2010 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, 2024 Edition.

25.5(1) *Definitions.* The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, 2024 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

a. Administrative authority. The administrative authority for this rule is the city council and its designees or, with respect to private water utilities, the Iowa utilities board.

b. Approved backflow prevention assembly for containment. Approved backflow prevention assembly for containment means a backflow prevention assembly which is approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. The approval listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly shall also be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitary Engineering (ASSE) as having met the requirements of one of the standards listed below.

Standard	Product Covered
ANSI¤/ASSE* 1013-2009	Reduced Pressure Principle Backflow Preventers
ANSI¤/ASSE* 1015-2009	Double Check Backflow Prevention Assembly
ANSI¤/ASSE* 1047-2009	Reduced Pressure Detector Backflow Preventer
ANSI¤/ASSE* 1048-2009	Double Check Detector Assembly Backflow Preventer
ANSI¤/AWWA† C510-07	Double Check Valve Backflow Prevention Assembly
ANSI¤/AWWA† C511-07	Reduced-Pressure Principle Backflow Prevention Assembly

¤American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036
*American Society of Sanitary Engineering, 18927 Hickory Creek Drive #220, Mokena, IL 60448
†American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235

c. Approved backflow prevention assembly for containment in a fire protection system. Approved backflow prevention assembly for containment in a fire protection system means a backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL) in addition to the requirements of 25.5(1)*"b."*

d. Containment. Containment is a method of backflow prevention which requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical.

e. Customer. Customer means the owner, operator or occupant of a building or property which has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

f. Degree of hazard. Degree of hazard means the rating of a cross connection or a water service which indicates if it has the potential to cause contamination (high hazard) or pollution (low hazard).

g. Water service. Depending on the context, water service is the physical connection between a public water system and a customer's building, property or private water system, or the act of providing potable water from a public water system to a customer.

25.5(2) *Proposed water service.*

a. No person shall install, or cause to have installed, a water service to a building, property or private water system before the administrative authority has evaluated the proposed water service for degree of hazard.

b. The administrative authority will require the submission of plans, specifications and other information deemed necessary for a building, property or private water system to which a water service is proposed. The administrative authority will review the information submitted to determine if cross connections will exist and the degree of hazard.

c. The owner of a building, property or private water system shall install, or cause to have installed, an approved backflow prevention assembly for containment as directed by the administrative authority before water service is initiated.

d. Reconstruction of an existing water service shall be treated as a proposed water service for the purposes of rule 641—25.5(135).

25.5(3) *Existing water services.*

a. Each customer shall survey the activities and processes which receive water from the water service and report to the administrative authority if cross connections exist and the degree of hazard.

b. The administrative authority may inspect the plumbing of any building, property and private water system which has a water service to determine if cross connections exist and the degree of hazard.

c. If, based on information provided through 25.5(3)*"a"* and *"b,"* the administrative authority determines that a water service may contaminate the public water supply, the administrative authority will require that the customer install the appropriate backflow prevention assembly for containment.

d. If a customer refuses to install a backflow prevention assembly for containment when it is required by the administrative authority, the administrative authority may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.

25.5(4) *Backflow prevention assemblies for containment.* The following standards shall apply:

a. Backflow prevention assemblies for containment will be installed immediately following the water meter or as close to that location as deemed practical by the administrative authority.

b. A water service determined to present a high hazard will be protected by an air gap or an approved reduced-pressure principle backflow prevention assembly.

c. A water service determined to present a low hazard will be protected by an approved double check valve assembly or as in 25.5(4)*"b."*

d. A water service to a fire protection system will be protected from backflow in accordance with the recommendations of American Water Works Association Manual M14, fourth edition. Where backflow prevention is required for a fire protection system, an approved backflow prevention assembly for containment in a fire protection system will be used.

25.5(5) *Backflow incidents.*

a. The customer shall immediately notify the agency providing water service when the customer becomes aware that backflow has occurred in the building, property or private water system receiving water service.

b. The administrative authority may order that a water service be temporarily shut off when a backflow occurs in a customer's building, property or private water system.

These rules are intended to implement Iowa Code chapter 105.

ARC 8670C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to state mechanical code and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 61, "State Mechanical Code," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 105 and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 61. This rulemaking implements Iowa Code chapter 105 in accordance with the goals and directives of Executive Order 10. Iowa Code section 105.4 requires that the Plumbing and Mechanical Board establish by rule a mechanical installation code governing the installation of mechanical systems in the state. The Board is to adopt the most current version of the International Mechanical Code (IMC) and may adopt amendments to the IMC so long as those amendments do not conflict with the fire safety rules and standards promulgated by the Department.

This rulemaking implements the aforementioned Iowa Code section by adopting the most current version of the IMC as the state mechanical code, with amendments. The Board took into consideration informal public comment provided during Board meetings in proposing these rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments. However, the Department received feedback from stakeholders prior to the publication of the Regulatory Analysis and that input was taken into consideration when drafting this rulemaking.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9 to 9:30 a.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1 to 1:30 p.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
STATE MECHANICAL CODE

641—61.1(105) Definitions. The following definitions apply to this chapter:

"Ambulatory surgical center" means a facility or portion thereof defined in Iowa Code section 135R.1.

"Hospice" means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

"Hospital" means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

"Intermediate care facility" means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6.

"Life Safety Code" means the 2012 edition of the Life Safety Code of the National Fire Protection Association, available at www.nfpa.org.

"Nursing facility" means the same as defined in Iowa Code section 135C.1.

641—61.2(105) Adoption by reference. Sections 101 and 102 and Chapters 2 through 15 of the International Mechanical Code, 2024 edition, published by the International Code Council, www.iccsafe.org, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings and premises in Iowa.

641—61.3(105) Amendments to International Mechanical Code. The International Mechanical Code (IMC), as adopted by reference in rule 641—61.2(105), is amended as follows:

61.3(1) In Section 101.2, delete the phrase "International Fuel Gas Code" and insert in lieu thereof "NFPA 54, National Fuel Gas Code, current edition; NFPA 58, Liquefied Petroleum Gas Code, current edition; the provisions of 661—Chapter 226; and the state plumbing code".

61.3(2) Amend Section 102 by adopting new Section 102.12 as follows:

102.12 Local authority.

(a) Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in the state mechanical code adopted and amended by this chapter. Permit, inspection, testing, and enforcement provisions contained in this code are not administered by the Plumbing and Mechanical Systems Board or the state unless otherwise provided by law.

(b) Local jurisdictions may not adopt mechanical codes other than the state mechanical code adopted and amended by this chapter. Local jurisdictions may adopt additional amendments to the state mechanical code if the additional amendments are stricter than the state mechanical code as set forth in this chapter. Local jurisdictions that adopt additional amendments will provide copies of any local amendments to the board.

61.3(3) Amend Section 304.11 by deleting the last sentence and inserting in lieu thereof the following new exception:

Exception: Guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire lifetime of the roof covering. The devices shall be evaluated for possible replacement when the entire roof covering is replaced and be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

61.3(4) Amend Section 306.1 by deleting the last sentence and inserting in lieu thereof: "An unobstructed level working space at least 30 inches deep and 30 inches wide shall be provided on any side of equipment where service access is required. The authority having jurisdiction may approve service reductions prior to equipment installation, provided that the manufacturer's instructions are met."

61.3(5) Delete Section 306.2 and insert in lieu thereof the following new section:

306.2 Appliances in rooms and closets. Rooms and closets containing appliances shall be provided with a door and an unobstructed passageway measuring not less than 36 inches wide and 80 inches high and a level service space not less than 30 inches deep and 30 inches wide at the front service side of the appliance with the door open.

61.3(6) Amend Section 306.5 by:

a. Adding the following to the end of the section: "If the tenants of a multiple tenant building have, or are allowed to have, mechanical facilities on the roof or which penetrate the roof, then roof access ladders must be provided for use by all such tenants and their agents and contractors in a manner that does not require accessing space under the control of another tenant."

b. Deleting the following: "Exception: This section shall not apply to Group R-3 occupancies."

c. Adopting new Section 306.5.3 as follows:

306.5.3 Visual screening of rooftop equipment. Equipment screening shall not be installed to the rooftop unit or the curb of the rooftop unit unless specified in the mechanical equipment manufacturer's installation instructions.

61.3(7) Delete Section 401.1 and insert in lieu thereof the following new section:

401.1 Scope. This chapter shall govern the ventilation of spaces within a building intended to be occupied, and the buildings meet either the requirements of ASHRAE Standard 62.1, "Ventilation for Acceptable Indoor Air Quality," 2019 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; subslab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

61.3(8) Add the following footnote "i" related to the gym, stadium, arena (play area) category of the sports and amusement occupancy classification in Table 403.3.1.1, Minimum Ventilation Rates:

i. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

61.3(9) Add the following footnote "j" to Table 403.3.1.1 anywhere the term "smoking lounges" appears:

j. For ventilation purposes, "smoking" includes both combustible tobacco products and accessories and electronic smoking devices and accessories.

61.3(10) Delete Section 504.9.2 and insert in lieu thereof the following new section:

504.9.2 Duct installation. Exhaust ducts shall:

a. Be supported at 4-foot (1219 mm) intervals and secured in place;

b. The insert end of the duct will extend into the adjoining duct or fitting in the direction of airflow;

c. Not be joined by screws or similar fasteners that protrude into the inside of the duct.

61.3(11) Delete Subsection 506.3.13.3 and insert in lieu thereof the following new subsection:

506.3.13.3 Termination location. Exhaust outlets shall be located not less than 10 feet (3048 mm) horizontally from parts of the same or contiguous buildings, adjacent buildings and adjacent property lines; not less than 10 feet (3048 mm) above the adjoining grade level; and not less than 20 feet horizontally/vertically from or not less than 5 feet above air intake openings and operable doors and windows into any building.

61.3(12) The first sentence of Section 507.3 is amended to read: "Type II hoods shall be installed above dishwashers capable of heating water beyond 140 degrees Fahrenheit and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system."

61.3(13) Delete Section 508.1.1 and insert in lieu thereof the following new section:

508.1.1 Makeup air temperature. All kitchen makeup air systems shall be verified by a certified TAB (testing and balance) contractor to heat makeup air to within 10 degrees of room temperature set point and the TAB contractor certified by NEBB, TABB, or other certifying organization as approved by the Authority Having Jurisdiction.

61.3(14) Amend Section 601.5 by adopting new paragraph "9" as follows:

9. Return air openings shall be located at least 18 inches from supply air openings and air throw directed away from return air openings to reduce short cycling of air. Exception: Factory-made concentric duct terminations.

61.3(15) Amend Section 601.5 by adopting new paragraph "10" as follows:

10. One return air opening per floor is required on a central duct return system per ACCA Manual D, Appendix 8, and return air transfer openings are required on all bedrooms when dedicated return air openings are not used.

61.3(16) Amend Section 603 by adopting new Section 603.1.1 as follows:

603.1.1 Duct location. Air plenums and ducts located in floor and wall cavities shall be separated from unconditioned space by construction with insulation to meet energy code requirements. These areas include but are not limited to exterior walls, cantilevered floors, and floors above garages.

61.3(17) Delete Section 604.3 and insert in lieu thereof the following new section:

604.3 Coverings and linings. Duct coverings and linings, including adhesives where used, shall have a flame spread index of not more than 25 and a smoke-development index of not more than 50, when tested in accordance with ASTM E84 or UL 723, using the specimen preparation and mounting procedures of ASTM E2231 and not flame, glow, smolder or smoke when tested in accordance with ASTM C411 at the temperature to which they are exposed in service. The testing temperature shall not fall below 250ºF (121ºC) and coverings and linings be listed and labeled. The use of an air gap to meet R-value requirements for duct insulation is prohibited.

61.3(18) Amend Subsection 607.6.2.1 by adopting new Subsections 607.6.2.1.3 and 607.6.2.1.4 as follows:

607.6.2.1.3 Access ceiling radiation dampers shall be provided with an approved means of access that is large enough to permit inspection and maintenance of the damper and its operating parts and dampers equipped with fusible links and internal operators be provided for both with either an access door that is not less than 12 inches (305 mm) square, or a removable duct section.

607.6.2.1.4 Identification ceiling radiation damper locations and access points shall be permanently identified on the exterior by a label or marking acceptable to the authority having jurisdiction.

61.3(19) Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code".

641—61.4(105) Hospitals and health care facilities.

61.4(1) A hospital that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the hospital is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the hospital shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(2) A nursing facility or hospice that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the nursing facility or hospice is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the nursing facility or hospice shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(3) An intermediate care facility that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the intermediate care facility is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the intermediate care facility shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(4) An ambulatory surgical center that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the ambulatory surgical center is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the ambulatory surgical center shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(5) A religious nonmedical health care institution that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the provisions of the state mechanical code if the institution is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the religious nonmedical health care institution shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

641—61.5(105) Enforcement. Any state or local jurisdiction retaining authority to perform inspections of mechanical installations in the state of Iowa will retain initial interpretive authority over the state mechanical code and may implement an appeals process with respect to such interpretation. Ultimate appeal of any initial interpretation may be made to the plumbing and mechanical systems board by the filing of a petition for declaratory order pursuant to Iowa Code chapter 17A and 481—Chapter 3 or the filing of a petition for waiver pursuant to Iowa Code chapter 17A and 481—Chapter 6.

These rules are intended to implement Iowa Code section 105.4.

ARC 8671C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to lead hazard notification process and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 69, "Renovation, Remodeling, and Repainting—Lead Hazard Notification Process," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 10A.903.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 10A.903 and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 69. This rulemaking implements Iowa Code section 10A.903 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.903 requires that the Department adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process. Iowa Code section 10A.903(1)"b" further provides that the rules shall include but not be limited to an authorization that the lead hazard notification to parents or guardians of children attending a child-occupied facility may be completed by posting an informational sign and a copy of the approved lead-hazard information packet. The rules shall also address requirements for notification of parents or guardians of the children visiting a child-occupied facility when the facility is vacant for an extended period of time.

This rulemaking implements the aforementioned Iowa Code section by setting forth standard procedures to ensure that notifications are appropriately provided. The rulemaking requires the certified lead professional to provide the pamphlet "Lead Poisoning: How to Protect Iowa Families" or the federal pamphlet "Renovate Right" prior to commencing applicable work. The rules further require a signed notification from the owner and adult occupant of dwelling units where renovation, remodeling, and repainting will be performed to acknowledge the potential lead hazards. Records must be kept for a minimum of three years.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321

Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 10 to 10:30 a.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 2 to 2:30 p.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 69 and adopt the following **new** chapter in lieu thereof:

CHAPTER 69
RENOVATION, REMODELING, AND REPAINTING—LEAD HAZARD NOTIFICATION PROCESS

641—69.1(10A) Applicability. This chapter applies to all persons who perform renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility.

641—69.2(10A) Definitions.

"Arithmetic mean" means the algebraic sum of data values divided by the number of data values. For example, the sum of the concentration of lead in several soil samples divided by the number of samples is the arithmetic mean.

"Certificate of mailing" means certified mail with return receipt or its equivalent.

"Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew.

"Child-occupied facility" means the same as defined in Iowa Code section 10A.903. "Child-occupied facility" also includes any building where lead-based paint activities are conducted immediately prior to or during the conversion of the building to a child-occupied facility.

"Common area" means a portion of the building that is generally accessible to all occupants. This includes, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

"Compensation" means payment or reimbursement for services performed. Compensation is not limited to monetary considerations and includes payment of rent for rental units, receipt of a salary from

the owner or manager of target housing, and receipt of a salary from the owner or operator of a child-occupied facility.

"Components" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include but are not limited to interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, countertops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, facias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, latticework, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casing, sashes and wells, and air conditioners.

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

"Dripline" means the area within three feet surrounding the perimeter of a building.

"Dust-lead hazard" means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead equal to or exceeding 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.

"Dwelling unit" means a single, unified combination of rooms designed for use as a dwelling by one family.

"Emergency renovation, remodeling, or repainting" means renovation, remodeling, or repainting activities necessitated by nonroutine failures of equipment or a structure that were not planned but resulted from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage.

"Friction surface" means an interior or exterior surface that is subject to abrasion or friction including but not limited to certain window, floor, and stair surfaces.

"Hazardous lead-based paint" means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

"Housing for the elderly" means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or an age recognized as elderly by a specific federal housing assistance program.

"Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

"Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight.

"Lead-based paint hazard" means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

"Living area" means any area of a residential dwelling used by at least one child six years of age or less including but not limited to living rooms, kitchen areas, dens, playrooms, and children's bedrooms.

"Mid-yard" means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

"Multifamily dwelling" means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

"Play area" means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, caregivers, or property owners.

"Regulated entity" means any individual or company that is regulated by the department by virtue of these rules, the Iowa Code, or other official regulatory promulgation.

"Renovation, remodeling, repainting" means modifying any existing structure or portion of a structure where painted surfaces are disturbed, unless the activity fits the criteria of lead abatement as defined in rule 641—70.2(10A) and is performed by a certified lead abatement contractor as defined in rule 641—70.2(10A). This includes, but is not limited to, removing walls, ceilings, and other painted building components; window replacement; floor refinishing; and sanding, scraping, stripping, water blasting, or otherwise removing paint.

"Residential dwelling" means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including but not limited to garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

"Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead in excess of 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 400 parts per million.

"Target housing" means the same as defined in Iowa Code section 10A.903.

641—69.3(10A) Notification required in target housing. A person who performs renovation, remodeling, or repainting of target housing for compensation, except for emergency renovation, remodeling, or repainting of target housing, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, shall do the following prior to commencing the work:

69.3(1) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the owner and adult occupant of each dwelling unit where renovation, remodeling, or repainting will be performed. The pamphlet shall be provided no more than 60 days prior to commencing the work.

69.3(2) Obtain a signed, dated acknowledgment from the owner and known adult occupant of each dwelling unit where renovation, remodeling, or repainting will be performed affirming receipt of the pamphlet prior to the start of renovation, remodeling, or repainting and are aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint. The acknowledgment shall be obtained no more than 60 days prior to commencing the work, be completed prior to commencing the work, be clearly and legibly written, and include the following:

a. The owner's and occupant's names and the address of the residential dwelling undergoing renovation, remodeling, or repainting.

b. The following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting housing containing lead-based paint or lead-based paint hazards.

c. The signature, and date of signature, of the owner and occupant below the statement from paragraph 69.3(2)*"b."* If a signature cannot be obtained from an adult occupant, the person must certify in writing that the pamphlet was delivered to the dwelling and that a written acknowledgment could not be obtained from an adult occupant. Such certification must include the address of the unit to be remodeled, renovated, or repainted; the date and method of delivery of the pamphlet; the name of the person delivering the pamphlet; the reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available); and a dated signature of the person conducting the renovation, remodeling, or repainting.

69.3(3) The acknowledgment from subrule 69.3(2) may be included as a separate sheet or as a part of any written contract or service agreement. If the parties use a written contract or agreement written in a language other than English, the acknowledgment text shall be written in the same language as the text of the contract or agreement.

69.3(4) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment at least seven days prior to beginning the work.

69.3(5) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting shall provide further notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

641—69.4(10A) Notification required in multifamily housing. A person who performs renovation, remodeling, or repainting of common areas for compensation, except for emergency renovation, remodeling, or repainting of target housing, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, shall do the following prior to commencing the work:

69.4(1) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the owner of the multifamily target housing where renovation, remodeling, or repainting will be performed. The pamphlet shall be provided no more than 60 days prior to commencing the work.

69.4(2) Obtain a signed, dated acknowledgment from the owner of the multifamily target housing where renovation, remodeling, or repainting will be performed affirming that the owner has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint. The acknowledgment shall be obtained no more than 60 days prior to commencing the work, be completed prior to commencing the work, be clearly and legibly written, and include the following:

a. The owner's name and the address of the multifamily dwelling undergoing renovation, remodeling, or repainting.

b. The following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting housing containing lead-based paint or lead-based paint hazards.

c. The signature of the owner, along with the date of signature.

69.4(3) Include the acknowledgment from subrule 69.4(2) as a separate sheet or as a part of any written contract or service agreement. If the parties use a written contract or agreement written in a language other than English, the acknowledgment text shall be written in the same language as the text of the contract or agreement.

69.4(4) Notify each occupant of the multifamily housing, in writing, of the intended remodeling, repainting, or renovation, and make a pamphlet as described in subrule 69.3(2) available upon request. At a minimum, this notification shall be accomplished by distributing written notice to each occupant of the target housing that describes:

a. The general nature and location of the planned renovation, remodeling, or repainting activity.

b. The expected starting and ending dates of the planned renovation, remodeling, or repainting activity.

c. A statement of how the owners and occupants can obtain a pamphlet as described in subrule 69.3(2) at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.4(5) These activities may be conducted by the owner on behalf of the person planning to perform the renovation, remodeling, or repainting.

69.4(6) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation, remodeling, or repainting, and to provide a pamphlet as described in subrule 69.3(2) at no charge upon request. Regardless of who performs the notification activities in this rule, the person planning to conduct the renovation, remodeling, or repainting is responsible for ensuring compliance will be liable for any failure to comply with the notification requirements of this rule.

69.4(7) Subrules 69.3(4) and 69.3(5) are applicable as if set forth herein.

641—69.5(10A) Emergency renovation, remodeling, or repainting in target housing. A person who performs emergency renovation, remodeling, or repainting of target housing for compensation, except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following as soon as reasonably possible:

69.5(1) Provide a pamphlet as described in subrule 69.3(2) to the owner of the target housing where renovation, remodeling, or repainting is performed.

69.5(2) Notify each owner and occupant of the target housing, in writing, of the remodeling, repainting, or renovation, and make a pamphlet as described in subrule 69.3(2) available upon request. At a minimum, this notification shall be accomplished by distributing written notice to each owner and occupant of the target housing that describes:

a. The general nature and location of the renovation, remodeling, or repainting activity.

b. The starting and ending dates of the renovation, remodeling, or repainting activity.

c. A statement of how the owners and occupants can obtain a pamphlet as described in subrule 69.3(2) at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.5(3) These activities may be conducted by the owner on behalf of the person performing the renovation, remodeling, or repainting. The person planning to perform the renovation, remodeling, or repainting must prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation, remodeling, or repainting and, upon request, provide a pamphlet as described in subrule 69.3(2) at no charge. Regardless of who performs the notification activities in this rule, the person conducting the renovation, remodeling, or repainting is responsible for ensuring compliance with this rule and will be liable for any failure to comply with the notification requirements of this rule.

641—69.6(10A) Certification of attempted delivery in target housing. When an adult occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the person conducting the renovation, remodeling, or repainting is permitted by subrule 69.3(2) to certify delivery for each instance. In addition to subrule 69.3(2):

69.6(1) If an adult occupant is unavailable for signature, the certification shall contain the printed name and dated signature of the person conducting the renovation, remodeling, or repainting, the address of the unit, and the attempted delivery dates and times under the following language:

> I certify that I have made a good-faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the unit listed below at the dates and times indicated, and that an adult occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

69.6(2) If the occupant refuses to sign the acknowledgment, the certification shall contain the printed name and dated signature of the person conducting the renovation, remodeling, or repainting, the address of the unit, the attempted delivery dates and times, and the location where the pamphlet was left at the unit (e.g., taped to the door, slipped under the door) under the following language:

> I certify that I have made a good-faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit.

641—69.7(10A) Notification required in child-occupied facilities. A person who performs renovation, remodeling, or repainting of child-occupied facilities for compensation, except for emergency renovation, remodeling, or repainting of child-occupied facilities, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following prior to commencing the work:

69.7(1) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the owner of the building where renovation, remodeling, or repainting will be performed. The pamphlet will be provided no more than 60 days prior to commencing the work.

69.7(2) Obtain a signed, dated acknowledgment from the owner of the building where renovation, remodeling, or repainting will be performed affirming that the owner has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health hazards from remodeling, renovating, or repainting buildings containing lead-based paint. The acknowledgment will be obtained no more than 60 days prior to commencing the work.

a. The acknowledgment will include the owner's name and the address of the child-occupied facility undergoing renovation, remodeling, or repainting.

b. The acknowledgment will include the following language:

> I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting buildings containing lead-based paint or lead-based paint hazards.

c. Below the statement, the acknowledgment will require the signature of the owner along with the date of signature.

d. If a signature cannot be obtained from the owner, the person will certify in writing that the pamphlet has been delivered to the building and that a written acknowledgment could not be obtained from an owner. Such certification will include the address of the building to be remodeled, renovated, or repainted, the date and method of delivery of the pamphlet, the name of the person delivering the pamphlet, the reason for lack of acknowledgment (e.g., owner refuses to sign, owner not available), the signature of the person conducting the renovation, remodeling, or repainting, and the date of signature.

e. The type will be clear and legible.

f. The acknowledgment may be included as a separate sheet or as a part of any written contract or service agreement. The acknowledgment will be completed prior to commencing the work.

g. If the parties use a written contract or agreement that is written in a language other than English, the acknowledgment text will be written in the same language as the text of the contract or agreement.

69.7(3) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment to the owner at least seven days prior to beginning the work.

69.7(4) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide further notification to the owners providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

69.7(5) If the operator of the child-occupied facility is not the owner of the building, provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the operator of the child-occupied facility where renovation, remodeling, or repainting will be performed. The pamphlet will be provided no more than 60 days prior to commencing the work.

69.7(6) If the operator of the child-occupied facility is not the owner of the building, obtain a signed, dated acknowledgment from the operator of the child-occupied facility where renovation, remodeling, or repainting will be performed affirming that the operator has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health hazards from remodeling, renovating, or repainting buildings containing lead-based paint. The acknowledgment will be obtained no more than 60 days prior to commencing the work.

a. The acknowledgment will include the name of the operator of the child-occupied facility and the address of the child-occupied facility undergoing renovation, remodeling, or repainting.

b. The acknowledgment will include the following language:

> I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting buildings containing lead-based paint or lead-based paint hazards.

c. Below the statement, the acknowledgment will require the signature of the operator of the child-occupied facility along with the date of signature.

d. If a signature cannot be obtained from the operator of the child-occupied facility, the person will certify in writing that the pamphlet has been delivered to the building and that a written acknowledgment could not be obtained from the operator of the child-occupied facility. Such certification will include the address of the building to be remodeled, renovated, or repainted, the date and method of delivery of the pamphlet, the name of the person delivering the pamphlet, the reason for lack of acknowledgment (e.g., operator of the child-occupied facility refuses to sign, operator of the child-occupied facility not available), the signature of the person conducting the renovation, remodeling, or repainting, and the date of signature.

e. The type will be clear and legible.

f. The acknowledgment may be included as a separate sheet or as a part of any written contract or service agreement. The acknowledgment will be completed prior to commencing the work.

g. If the parties use a written contract or agreement that is written in a language other than English, the acknowledgment text will be written in the same language as the text of the contract or agreement.

69.7(7) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment to the operator of the child-occupied facility at least 7 days prior to beginning the work.

69.7(8) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide further notification to the operator of the child-occupied facility providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

69.7(9) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, and information regarding the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date to the parents and guardians of children using the child-occupied facility where renovation, remodeling, or repainting will be performed. The pamphlet and information will be provided no more than 60 days prior to commencing the work. The person conducting the renovation, remodeling, or repainting will provide this information using one of the following methods:

a. Mail or hand-deliver the pamphlet and information to each parent or guardian of each child using the child-occupied facility (the pamphlet and information may not be sent home with the child); or

b. While the renovation, remodeling, or repainting is ongoing, post informational signs describing the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date. These signs will be posted in areas where they can be seen by the parents of the children frequenting the child-occupied facility. The signs will be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the person conducting the renovation, remodeling, or repainting at no cost to the parents or guardians.

69.7(10) The activities in subrule 69.7(9) will be conducted by the person planning to perform the renovation, remodeling, or repainting or by the owner or operator of the child-occupied facility on behalf of this person. Regardless of who performs the notification activities required in subrule 69.7(9), the person conducting the renovation, remodeling, or repainting will be responsible for ensuring compliance with this rule and will be liable for any failures to comply with the notification requirements in this rule.

69.7(11) The person conducting the renovation, remodeling, or repainting will prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation, remodeling, or repainting and to provide the pamphlet to them.

69.7(12) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide revised information on the ongoing or planned activities to the parents and guardians of children frequenting the child-occupied facility providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

641—69.8(10A) Emergency renovation, remodeling, or repainting in child-occupied facilities. A person who performs emergency renovation, remodeling, or repainting of child-occupied facilities for compensation, except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following as soon as reasonably possible:

69.8(1) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the owner of the building where renovation, remodeling, or repainting is performed.

69.8(2) Notify each owner and, if different, the operator of the child-occupied facility, in writing, of the remodeling, repainting, or renovation, and make the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, available upon request. At a minimum, this notification will be accomplished by distributing written notice to each owner and, if different, operator of the child-occupied facility. The notice will describe:

a. The general nature and location of the renovation, remodeling, or repainting activity.

b. The starting and ending dates of the renovation, remodeling, or repainting activity.

c. A statement of how each owner and, if different, the operator of the child-occupied facility can obtain the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.8(3) Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, and information regarding the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date to the parents and guardians of children using the child-occupied facility where renovation, remodeling, or repainting will be performed. The person conducting the renovation, remodeling, or repainting will provide this information using one of the following methods:

a. Mail or hand-deliver the pamphlet and information to each parent or guardian of each child using the child-occupied facility (the pamphlet and information may not be sent home with the child); or

b. While the renovation, remodeling, or repainting is ongoing, post informational signs describing the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date. These signs will be posted in areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs will be accompanied by a posted copy

of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the person conducting the renovation, remodeling, or repainting at no cost to the parents or guardians.

69.8(4) The activities in subrule 69.8(3) will be conducted by the person planning to perform the renovation, remodeling, or repainting or by the owner or operator of the child-occupied facility on behalf of this person. Regardless of who performs the notification activities required in subrule 69.8(3), the person conducting the renovation, remodeling, or repainting will be responsible for ensuring compliance with this rule and will be liable for any failures to comply with the notification requirements in this rule.

641—69.9(10A) Certification of attempted delivery for child-occupied facilities. When the owner and, if different, operator of a child-occupied facility are unavailable for signature or refuse to sign the acknowledgment of receipt of the pamphlet, the person conducting the renovation, remodeling, or repainting is permitted by subrule 69.3(2) to certify delivery for each instance. The certification will include the address of the child-occupied facility undergoing renovation, remodeling, or repainting, the date and method of delivery of the pamphlet, name of the person delivering the pamphlet, reason for lack of acknowledgment (e.g., owner and, if different, operator refuse to sign), the signature of the individual conducting the renovation, remodeling, or repainting, and the date of signature.

69.9(1) *Unavailable for signature.*

a. If the owner and, if different, operator of the child-occupied facility are unavailable for signature, the certification will contain the following language:

> I certify that I have made a good-faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the child-occupied facility listed below at the dates and times indicated, and that the owner and, if different, operator of the child-occupied facility was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the child-occupied facility with the owner and, if different, operator.

b. Below the statement, the certification will require the printed name and signature of the person conducting the renovation, remodeling, or repainting, the address of the child-occupied facility, the attempted delivery dates and times, and the date of signature.

69.9(2) *Refused to sign.*

a. If the owner and, if different, operator refuse to sign the acknowledgment, the certification will contain the following language:

> I certify that I have made a good-faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, to the child-occupied facility listed below at the dates and times indicated, and that the owner and, if different, operator refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the child-occupied facility.

b. Below the statement, the certification will require the printed name and signature of the person conducting the renovation, remodeling, or repainting, the address of the child-occupied facility, the attempted delivery dates and times, the location where the pamphlet was left at the child-occupied facility (e.g., taped to the door, slipped under the door), and the date of signature.

641—69.10(10A) Subcontracts. In cases where renovation, remodeling, or repainting activities involve subcontracts, it is the responsibility of the person receiving the compensation from the property owner, or other party on behalf of the property owner, to provide the notification(s) described in rules 641—69.3(10A), 641—69.4(10A), 641—69.5(10A), and 641—69.6(10A).

641—69.11(10A) Exemption. Renovation, remodeling, or repainting in target housing or a child-occupied facility in which a lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint and where the person conducting the renovation, remodeling, or repainting has obtained a copy of the written determination is exempt from the provisions of this chapter.

641—69.12(10A) Recordkeeping requirements. A person who conducts renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility shall retain records necessary to demonstrate compliance with this chapter for a minimum of three years following completion of the renovation, remodeling, or repainting, including:

69.12(1) The address or location of the target housing or child-occupied facility where remodeling, renovation, or repainting was conducted.

69.12(2) A list of all known occupants of the dwelling units where renovation, remodeling, or repainting was conducted at the commencement of the work.

69.12(3) Copies of signed, dated acknowledgments, notifications, and notification materials required by subrules 69.3(2) and 69.4(2) and rule 641—69.7(10A).

69.12(4) Reports showing that a lead inspector/risk assessor or elevated blood level (EBL) inspector/risk assessor certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint.

69.12(5) Certifications of attempted delivery as described in rule 641—69.6(10A).

69.12(6) Certificates of mailing as described in subrules 69.3(3) and 69.4(3).

641—69.13(10A) Compliance inspections. The department may enter the place of business of a person who conducts renovation, remodeling, or repainting for the purpose of enforcing the notification required by this chapter.

641—69.14(10A) Enforcement.

69.14(1) The department may impose a civil penalty pursuant to Iowa Code section 10A.903(3) when it finds that a person has committed any of the following acts:

a. Failed or refused to comply with any requirements of this chapter.

b. Failed or refused to establish, maintain, provide, copy, or permit access to records or reports as required by this chapter.

c. Failed or refused to permit entry or inspection as described in subrule 69.14(1).

d. Falsified reports and records required by this chapter.

e. Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.

f. Failed to respond within 20 days of receipt of communication sent by the department by registered or certified mail.

g. Engaged in any conduct that subverts or attempts to subvert a department investigation.

h. Failed to comply with a subpoena issued by the department or failed to cooperate with a department investigation.

i. Failed to pay costs assessed in any disciplinary action.

69.14(2) Complaints may be submitted to the department using contact information as set forth in 481—Chapter 1. The complainant should provide the name of the person who performs renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility and specific details of the person's noncompliance.

69.14(3) Civil penalties.

a. Before instituting any proceeding to impose a civil penalty under Iowa Code section 10A.903, the department will serve a written notice of violation upon the person charged. The notice of violation will specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged and will identify specifically the particular provision or provisions of the law, rule, regulation, or cease and desist order involved in the alleged violation and will state the amount of each proposed penalty. The notice of violation will also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation will advise the person charged that upon failure to pay a civil penalty subsequently determined by the department, if any, unless compromised, remitted, or mitigated, the fee may be collected by civil action.

b. Within 20 days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed, answer the notice of violation, or request a contested case hearing. The answer to the notice of violation shall state any facts, explanations, and arguments denying the charges of violation or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty. If the person charged with a violation fails to answer within the time specified in paragraph 69.14(3)*"b,"* an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in paragraph 69.14(3)*"a."* If the person charged with a violation files an answer to the notice of violation, the department, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within 20 days of the date of the order or other time specified in the order, request a contested case hearing. If the person charged with a violation timely requests a contested case hearing, it will be initiated and held in accordance with 481—Chapters 9 and 10.

641—69.15(10A) Waivers. Rules in this chapter are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

These rules are intended to implement Iowa Code section 10A.903.

ARC 8672C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to lead-based paint activities and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 70, "Lead-Based Paint Activities," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 10A.902.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 10A.902 and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 70. This rulemaking implements Iowa Code section 10A.902 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.902 requires that the Department adopt rules regarding minimum requirements for lead inspector, lead abater, and lead-safe renovator training programs, certification, work practice standards and suspension and revocation requirements, and to implement the training and certification programs. The Department shall seek federal funding and establish fees in amounts sufficient to defray the costs of the program.

This rulemaking implements the aforementioned Iowa Code section by specifying terms and requirements related to lead professionals and firms and lead training programs in accordance with state and federal law. The rules establish responsibilities for individuals working in the different lead disciplines. The rules identify specific training required of those individuals and provide a secure electronic system to keep certifications up to date. The rules provide clear guidelines for lead professionals regarding training and certification to perform lead-based paint activities.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 10 to 10:30 a.m.	Geode Conference Room 6200 Park Avenue Des Moines, Iowa
January 15, 2025 2 to 2:30 p.m.	Geode Conference Room 6200 Park Avenue Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 70 and adopt the following **new** chapter in lieu thereof:

CHAPTER 70
LEAD-BASED PAINT ACTIVITIES

641—70.1(10A) Applicability. This chapter applies to all persons who are lead professionals in Iowa, all firms that perform lead professional activities in Iowa, and training providers that offer training for lead professionals. This chapter addresses certification of lead professionals and establishes specific requirements for how lead-based paint activities will be performed if a property owner, manager, or occupant chooses to undertake them. Nothing in this chapter mandates a property owner, manager, or occupant to undertake any particular lead-based paint activity. This chapter also provides for the approval of courses that provide training for lead professionals.

641—70.2(10A) Definitions.

"Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

"Approved course" means a course that has been approved by the department for the training of lead professionals.

"Approved lead-safe work practices training program" means a lead-safe work practices training program that has been approved by the department.

"Arithmetic mean" means the algebraic sum of data values divided by the number of data values.

"Certified elevated blood lead (EBL) inspector/risk assessor" means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

"Certified firm" means a firm that employs certified lead professionals and has met the requirements of 641—70.7(10A) for certification and has been certified by the department.

"Certified lead abatement contractor" means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

"Certified lead abatement worker" means a person who has met the requirements of 641—70.5(10A) and who has been certified by the department.

"Certified lead inspector/risk assessor" means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

"Certified lead professional" means a person who has been certified by the department as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, lead abatement worker, project designer, sampling technician, or lead-safe renovator.

"Certified lead-safe renovator" means a person who has met the requirements of 641—70.5(10A) for certification and who has been certified by the department.

"Certified project designer" means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

"Certified sampling technician" means a person who has met the requirements of 641—70.5(10A) and who has been certified by the department.

"Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Surfaces can be considered chewable even if there is no evidence of teeth marks.

"Child-occupied facility" means the same as defined in Iowa Code section 10A.903. "Child-occupied facility" also includes any building where lead-based paint activities are conducted immediately prior to or during the conversion of the building to a child-occupied facility.

"Cleaning verification card" means a card developed and distributed, or otherwise approved, by the U.S. Environmental Protection Agency (EPA) for the purpose of determining, through comparison of

wet and dry disposable cleaning cloths with the card, whether postrenovation cleaning has been properly completed.

"Clearance level" means the value at which the amount of lead in dust on a surface following completion of interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, rehabilitation, or renovation is a dust-lead hazard and fails clearance testing. The clearance level for a single-surface dust sample from a floor is greater than or equal to 10 micrograms per square foot. The clearance level for a single-surface dust sample from an interior windowsill is greater than or equal to 100 micrograms per square foot. The clearance level for a single-surface dust sample from a window trough is greater than or equal to 400 micrograms per square foot.

"Clearance testing" means an activity conducted following interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, rehabilitation, or renovation to determine that the hazard reduction activities are complete. Clearance testing includes a visual assessment, the collection and analysis of environmental samples, the interpretation of sampling results, and the preparation of a report.

"Common area" means a portion of the building that is generally accessible to all occupants. This includes, but is not limited to, hallways, stairways, laundry and recreational rooms, porches, exteriors, playgrounds, community centers, garages, and boundary fences.

"Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include but are not limited to hallways, stairwells, and laundry rooms.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Component" or *"building component"* means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include but are not limited to interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, countertops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, latticework, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casings, sashes and wells, and air conditioners. Each side of a door is considered a component within its respective room.

"Component type" means a group of like components constructed of the same substrate in the same multifamily housing.

"Composite sample" means the collection of more than one sample of the same medium (e.g., dust, soil, or paint) from the same type of surface (e.g., floor, interior windowsill, or window trough) such that multiple samples can be analyzed as a single sample.

"Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per grams or parts per million of weight) in a sample of soil or dust.

"Containment" means a system of temporary barriers to protect workers, residents, and the environment by controlling exposures to the dust-lead hazards and debris created during renovation or lead abatement.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

"Course test" means an evaluation of the overall effectiveness of the training, which shall test the trainees' knowledge and retention of the topics covered during the course.

"Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

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

"Deteriorated paint" means any interior or exterior paint or other coating that is cracking, flaking, chipping, peeling, or chalking, or any paint or coating located on an interior or exterior surface that is otherwise damaged or separated from the substrate of a building component.

"Discipline" means one of the specific types or categories of lead-based paint activities identified in this chapter for which individuals may receive training from approved courses and become certified by the department.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a certified profession, or (2) the circumstances under which an offense was committed are circumstances customary to a certified profession.

"Distinct painting history" means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

"Documented methodologies" means methods or protocols used to sample for the presence of lead in paint, dust, and soil.

"Dripline" means the area within three feet surrounding the perimeter of a building.

"Dry disposable cleaning cloth" means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

"Dry sanding" means sanding a surface that is partially coated with paint or other surface coating without moisture and includes hand and mechanical methods of sanding.

"Dry scraping" means scraping a surface that is partially coated with paint or other surface coating without moisture and includes hand and mechanical methods of scraping.

"Dust-lead hazard" means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead greater than or equal to 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is greater than or equal to 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.

"Elevated blood lead (EBL) child" means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.

"Elevated blood lead (EBL) inspection" means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the property owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child. A certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a residential dwelling is free of lead-based paint as a result of an elevated blood lead (EBL) inspection.

"Emergency renovation" means renovation, remodeling, or repainting activities necessitated by nonroutine failures of equipment or of a structure that were not planned but resulted from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or

threatens equipment or property with significant damage. "Emergency renovation" includes interim controls, renovation, remodeling, or repainting activities that are conducted in response to an elevated blood lead (EBL) inspection.

"Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded coating material.

"Encapsulation" means the application of an encapsulant.

"Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

"Firm" means a company, partnership, corporation, sole proprietorship, individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization that performs or offers to perform lead-based paint activities.

"Friction surface" means an interior or exterior surface that is subject to abrasion or friction including but not limited to certain window, floor, and stair surfaces.

"Guest instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on work activities, or work practice components of a course.

"Hands-on skills assessment" means an evaluation that tests the trainees' ability to satisfactorily perform the work practices and procedures identified in 641—70.6(10A), as well as any other skill taught in a training course.

"Hazardous lead-based paint" means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is greater than or equal to the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

"Hazardous waste" means any waste as defined in 40 CFR 261.3.

"HEPA exhaust control" means a HEPA vacuum attached to the machine in such a manner that it captures the air, dust, and debris disturbed by the machine.

"HEPA vacuum" means a vacuum cleaner that has been designed, operated, and maintained with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97 percent efficiency. The vacuum cleaner must be designed, operated, and maintained so that all of the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it. HEPA vacuums must be operated and maintained in accordance with the manufacturer's instructions.

"Housing for the elderly" means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or an age recognized as elderly by a specific federal housing assistance program.

"Immediate family" means spouse, parents and grandparents, children and grandchildren, brothers and sisters, mother-in-law and father-in-law, brothers-in-law and sisters-in-law, daughters-in-law and sons-in-law, and adopted and step family members.

"Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

"Inconclusive classification" means any XRF reading falling within the inconclusive range on the performance characteristic sheet, including the boundary values defining the range.

"Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including repairing deteriorated lead-based paint, specialized cleaning, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"Interior windowsill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

"Lead abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards in a residential dwelling or child-occupied facility. Lead abatement includes, but is not limited to, (1) the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of soil-lead hazards and (2) all preparation, cleanup, disposal, repainting or refinishing, and postabatement clearance testing activities associated with such measures. "Lead abatement" specifically includes projects for which there is a written contract or other documentation, which provides that an individual will be conducting lead abatement in or around a residential dwelling or child-occupied facility.

"Lead abatement" also includes but is not limited to (1) projects for which there is a written contract or other document, which provides that an individual will be conducting activities in or to a residential dwelling or child-occupied facility that shall result in or are designed to permanently eliminate lead-based paint hazards, (2) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by firms or individuals certified under 641—70.5(10A), (3) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead abatement, and (4) projects resulting in the permanent elimination of lead-based paint that are conducted in response to a lead abatement order. However, in the case of items (1) through (4) of this definition, "lead abatement" does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, "lead abatement" does not include interim controls, operations and maintenance activities, renovation, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

"Lead-based paint" means paint or other surface coatings that contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

"Lead-based paint activities" means, in the case of target housing and child-occupied facilities, lead-free inspection, lead inspection, elevated blood lead (EBL) inspection, lead hazard screen, risk assessment, lead abatement, visual risk assessment, clearance testing conducted after lead abatement, clearance testing conducted after renovation, clearance testing conducted after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, and renovation.

"Lead-based paint hazard" means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

"Lead-based paint hazard reduction activity" means an activity that permanently or temporarily reduces or eliminates lead-based paint hazards. "Lead-based paint hazard reduction activity" includes lead abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

"Lead-free inspection" means an inspection to determine whether a single dwelling unit or multifamily housing is free of lead-based paint and qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint and the provision of a written report explaining the results of the lead-free inspection and options for reducing lead-based paint hazards to the property owner and to the person requesting the lead inspection.

"Lead hazard screen" means a limited risk assessment activity that involves limited paint and dust sampling and the provision of a written report explaining the results of the lead hazard screen to the property owner and to the person requesting the lead hazard screen.

"Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and a determination of the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards to the property owner and to the person requesting the lead inspection. A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a residential dwelling is free of lead-based paint as a result of a lead inspection.

"Lead professional" means a person who conducts lead abatement, renovation, lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, clearance testing after renovation, paint testing, or clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

"Lead-safe work practices" means methods that are used to minimize hazards when conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

"Lead-safe renovator training program" means an eight-hour training program that provides training on how to work safely with lead-based paint.

"Living area" means any area of a residential dwelling used by at least one child under the age of six years, including but not limited to living rooms, kitchen areas, dens, playrooms, and children's bedrooms.

"Loading" means the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

"Mid-yard" means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

"Minor repair and maintenance activities" means activities, including minor heating, ventilation or air-conditioning work, electrical work, and plumbing, that disrupt less than the minimum areas of a painted surface established in this definition where none of the work practices prohibited or restricted by this chapter are used and where the work does not involve window replacement or demolition of painted surface areas. When painted components or portions of painted components are removed, the entire surface area removed is the amount of painted surface disturbed. Projects, other than emergency renovation, performed in the same room within the same 30 days will be considered the same project for the purpose of determining whether the project is a minor repair and maintenance activity. Renovations performed in response to an elevated blood lead (EBL) inspection are not considered minor repair and maintenance activities. The minimum area for minor repair and maintenance activities is:

1. Less than 1.0 square foot of an interior painted or finished wood surface per renovation;
2. Less than 6.0 square feet of a painted or finished drywall or plaster surface per room; or
3. Less than 20.0 square feet of an exterior painted or finished surface per renovation.

Projects performed pursuant to 24 CFR Part 35 shall comply with the de minimis levels in 24 CFR 35.1350 if these de minimis levels are more restrictive than the minimum areas of a painted surface established in this definition.

"Multifamily dwelling" means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"Multifamily housing" means one or more multifamily dwellings that are under the same ownership or management.

"Negative classification" means any value defined by the performance characteristics sheet as indicating that lead-based paint is not present.

"NIST 1.02 standard film" means the National Institute of Standards and Technology 1.02 milligrams of lead per square centimeter standard reference material. If the specific 1.02 milligrams of lead per square centimeter standard is not available from NIST, then the lead inspector/risk assessor or

elevated blood lead (EBL) inspector/risk assessor shall use the closest available standard from NIST (1.0X).

"Occupant protection plan" means a plan developed by a certified lead abatement contractor prior to the commencement of lead abatement in a residential dwelling or child-occupied facility that describes the measures and management procedures that will be taken during lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

"Ongoing lead-based paint maintenance" means the maintenance of housing pursuant to 24 CFR Part 35.

"Painted component" means a component or building component that is at least partially covered with paint or other surface coating.

"Paint-lead hazard" means the presence of hazardous lead-based paint in a residential dwelling or a child-occupied facility.

"Paint sample" means a sample collected in a representative location using ASTM E1729, "Standard Practice for Field Collection of Dried Paint Samples for Lead Determination by Atomic Spectrometry Techniques," as effective on March 26, 2025, or equivalent method.

"Paint stabilization" means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint pursuant to 24 CFR Part 35.

"Paint testing" means the process of determining the presence or the absence of lead-based paint on a specific component or surface. Paint testing shall only be conducted by certified lead inspector/risk assessors or certified elevated blood lead (EBL) inspector/risk assessors using approved methods for testing. Approved methods for paint testing are XRF analysis and laboratory analysis.

"Performance characteristics sheet (PCS)" means an information sheet developed by the U.S. Environmental Protection Agency and U.S. Department of Housing and Urban Development that defines acceptable operating specifications and procedures for a specific model of X-ray fluorescence analyzer (XRF). The PCS contains information about XRF readings taken on specific substrates, calibration check tolerances, interpretation of XRF readings, and other aspects of the model's performance.

"Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

"Play area" means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, caregivers, or property owners.

"Positive classification" means any value defined by the performance characteristics sheet as indicating the presence of lead-based paint.

"Postrenovation cleaning verification" means the use of a wet or dry disposable cleaning cloth to wipe the interior windowsill, window trough, uncarpeted floor, and countertops of the renovation work area and the comparison of the cloth to a cleaning verification card to determine if the work area has been adequately cleaned.

"Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

"Public housing agency" or *"PHA"* means a state, county, municipality, or other governmental entity or public body that is authorized to engage in or assist in the development or operation of low-income housing. A PHA must be approved by the U.S. Department of Housing and Urban Development (HUD).

"Random selection" means a method of choosing residential dwellings from multifamily housing consisting of similarly constructed and maintained residential dwellings such that each residential dwelling has an equal chance of being selected.

"Recognized laboratory" means an environmental laboratory recognized by the U.S. Environmental Protection Agency pursuant to Section 405(b) of the federal Toxic Substance Control Act as capable of performing an analysis for lead compounds in paint, soil, and dust.

"Recognized test kit" means a commercially available kit recognized by the EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent by weight, in a paint chip, paint, powder, or painted surface.

"Reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and lead abatement.

"Reevaluation" means a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following a lead-based paint hazard reduction activity where lead-based paint is still present and the provision of a written report explaining the results of the reevaluation.

"Refresher training course" means a course taken by a certified lead professional to maintain certification in a particular discipline.

"Regulated entity" means any lead professional or firm that is regulated by the department by virtue of these rules, the Iowa Code, certification documents, approval documents, lead abatement notices, or other official regulatory promulgation.

"Rehabilitation" means the improvement of an existing structure through alterations, incidental additions, or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.

"Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of lead abatement as defined by this chapter. The term "renovation" includes, but is not limited to, the removal, modification, or repair of painted surfaces or painted components such as modification of painted doors, surface restoration, and window repair; surface preparation activity such as sanding, scraping, or other such activities that may generate paint dust; the partial or complete removal of building components such as walls, ceilings, and windows; weatherization projects such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics and planning thresholds to install weatherstripping; and interim controls that disturb painted surfaces. "Renovation" does not include minor repair and maintenance activities.

"Residential building" means a building containing one or more residential dwellings.

"Residential dwelling" means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including but not limited to garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, that is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

"Risk assessment" means an investigation to determine the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards to the property owner and to the person requesting the risk assessment.

"Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened-in porch that is used as a living area is a room. Each exterior side of the house is considered a separate room.

"Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead greater than or equal to 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is greater than or equal to 400 parts per million.

"Soil sample" means a sample collected in a representative location using ASTM E1727, "Standard Practice for Field Collection of Soil Samples by Atomic Spectrometry Techniques," as effective on March 26, 2025, or equivalent method.

"Standard treatments" means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a residential dwelling without the benefit of a risk assessment or other evaluation pursuant to 24 CFR Part 35. Standard treatments consist of the stabilization of all deteriorated interior and exterior paint, the provision of smooth and cleanable horizontal hard surfaces, the correction of dust-generating conditions (i.e., conditions causing rubbing, binding, or crushing of surfaces known to or presumed to be coated with lead-based paint), and the treatment of bare soil to control known or presumed soil-lead hazards.

"State certification examination" means a discipline-specific examination approved by the department to test the knowledge of a person who has completed an approved training course and is applying for certification in a particular discipline. The state certification examination may not be administered by the provider of an approved course.

"Substrate" means the material underneath the paint or finish on a surface. Substrates are classified as brick, concrete, drywall, metal, plaster, or wood.

"Substrate correction" means adjustments that must be made to readings obtained from some X-ray fluorescence analyzers to correct for systematic biases due to interference from the substrate beneath the paint.

"Substrate correction value" means the value that is used to adjust readings obtained from some X-ray fluorescence analyzers to correct for systematic biases due to interference from the substrate beneath the paint.

"Targeted selection" means selecting residential dwellings from multifamily housing for risk assessments or lead hazard screens using information supplied by the property owner.

"Target housing" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities and housing that does not contain a bedroom, unless at least one child under the age of six years resides or is expected to reside in the housing for the elderly or persons with disabilities or housing that does not contain a bedroom. Target housing also includes any nonresidential building where lead-based paint activities are conducted prior to or during the conversion of the nonresidential building to target housing.

"Testing combination" means the unique combination of the room, component, substrate, and distinct painting history.

"Training hour" means at least 50 minutes of actual learning, including but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience.

"Training manager" means the individual responsible for administering an approved course and monitoring the performance of principal instructors and guest instructors.

"Training program" means a person or organization sponsoring a lead professional training course(s).

"Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child-occupied facility following lead abatement or following interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR 35.1340 to determine whether or not the lead abatement, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation has been successfully completed.

"Visual risk assessment" means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the assessment to the property owner and to the person requesting the visual risk assessment. For the purpose of compliance with this chapter, housing quality standards inspections conducted in housing owned by a public housing authority and housing that is receiving tenant-based rental assistance from a public housing authority are not considered visual risk assessments.

"Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface dust sample is comprised of a single dust subsample. A composite dust sample may contain from two to four dust subsamples of the same area as each other and of each single

surface dust sample in the composite. The weighted arithmetic mean is obtained by summing, for all dust samples, the product of the dust sample's result multiplied by the number of dust subsamples in the dust sample, and dividing the sum by the total number of dust subsamples contained in all dust samples.

"Wet disposable cleaning cloth" means a commercially available, premoistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

"Wet mopping system" means a device with the following characteristics: a long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficiency.

"Wet sanding" means a process of removing loose paint in which a surface that is partially coated with paint or other surface coating is kept wet or moist during sanding to minimize the dispersal of paint chips and airborne dust.

"Wet scraping" means a process of removing loose paint in which a surface that is partially coated with paint or other surface coating is kept wet or moist during scraping to minimize the dispersal of paint chips and airborne dust.

"Windowsill" means the portion of the horizontal window ledge that protrudes into the interior of the room when the window is closed.

"Window trough" means, for a typical double-hung window, the portion of the exterior windowsill between the interior windowsill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window well.

"Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques," as effective on March 26, 2025, or equivalent method, with an acceptable wipe material as defined in ASTM E1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust," as effective on March 26, 2025. The minimum area for a floor wipe sample shall be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample shall be 0.25 square feet or 36 square inches.

"Worksite" or *"work area"* means an interior or exterior area where lead-based paint hazard reduction activity or renovation takes place. There may be more than one worksite in a dwelling unit or at a residential property.

"Worst case selection" means conducting a walk-through survey of all residential dwellings in the multifamily housing to select the highest-risk residential dwellings for risk assessments or lead hazard screens.

"X-ray fluorescence analyzer" or *"XRF analyzer"* means an instrument that determines lead concentrations in milligrams per square centimeter (mg/cm^2) using the principle of X-ray fluorescence.

"XRF reading" means the number obtained when a surface is tested with an X-ray fluorescence analyzer.

641—70.3(10A) Lead professional certification.

70.3(1) A person or a firm that conducts lead abatement, renovation, clearance testing after lead abatement, lead-free inspections, lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 has to be certified by the department in the appropriate discipline. However, persons who perform these activities within residential dwellings that they, or an immediate family member, own and currently reside in, are not required to be certified.

70.3(2) Persons who perform renovation under the supervision of a certified lead-safe renovator, certified lead abatement contractor, or certified lead abatement worker and who have completed on-the-job training are not required to be certified. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR Part 35.

70.3(3) Elevated blood lead (EBL) inspections are conducted only by certified elevated blood lead (EBL) inspector/risk assessors employed by or under contract with the department, a local board of health, or a public housing agency.

641—70.4(10A) Course approval and standards. All lead professional training courses for initial certification and refresher training must be approved by the department. Training programs shall not state that they have been approved by the state of Iowa unless they have met the requirements of 641—70.4(10A) and been approved by the department.

70.4(1) Training courses shall meet the following requirements:

a. The training program offering the course will employ a training manager who has the following qualifications:

(1) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, or a related field; or two years of experience in managing a training program specializing in environmental hazards.

(2) Demonstrated experience, education, or training in lead professional activities, including lead inspection, lead abatement, lead-safe work practices, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

b. The training manager will designate a qualified principal instructor for each course who has the following qualifications:

(1) Demonstrated experience, education, or training in teaching workers or adults.

(2) Certification as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, or lead abatement contractor. In the case of a course for training lead-safe renovators, the principal instructor may be certified as a sampling technician.

(3) Demonstrated experience, education, or training in lead professional activities, including lead inspection, lead abatement, lead-safe work practices, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

c. The principal instructor will be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

d. The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment as needed.

e. The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in 70.4(3) through 70.4(17).

f. The training manager shall maintain the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

g. The course test shall be developed in accordance with the test blueprint submitted with the course approval application.

h. The training program will issue unique course completion certificates to each student who passes the course. The course completion certificate shall be issued in color. The course completion certificate will include:

(1) The first name, last name and middle initial of the student.

(2) The address of the student.

(3) A photograph of the student, and a unique identification number.

(4) The name of the particular course that the student completed and the course length in hours.

(5) Dates of course completion and test passage.

(6) The name, address, and telephone number of the training program.

(7) The signature of the training manager.

i. The training manager will develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(1) Procedures for periodic revision of training materials and the course test to reflect changes in regulations and recommended practices.

(2) Procedures for the training manager to conduct an annual review of the competency of the principal instructor and all other instructors.

j. The training program will offer courses that teach the work practice standards for conducting lead-based paint activities contained in 641—70.6(10A) and other standards developed by the department. These standards will be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

k. The training manager will ensure that each course meets the requirements in this rule for the number of training hours and hours of hands-on training. The training manager will ensure that any student who misses more than 20 minutes of class time makes up the time before taking the course test.

l. The training manager will ensure that the training program complies at all times with all requirements in this rule.

m. The content of the lead training courses will be in accordance with the subjects described specifically in each lead discipline contained in 641—70.4(10A).

n. The hands-on activities, denoted by an asterisk (*), shall include subjects that are also denoted with an asterisk (*) and listed in the related lead discipline contained in 641—70.4(10A).

o. Each lead training course will conclude with a course test and, if applicable, a hands-on skills assessment. The student must achieve a score of at least 80 percent on the examination and successfully complete the hands-on skills assessment to successfully complete the course. The student may take the course test no more than three times within six months of completing the course. If an individual does not pass the course test within six months of completing the course, the individual must retake the appropriate approved course.

p. The instructor will provide an introduction of the online certification system used by the department. The instructor will advise each student on the procedures needed to apply to the department for certification and provide information to each student on the procedures needed for taking the state certification examination. The instructor will also provide each student with a current copy of this chapter and 641—Chapter 69.

q. All of the course materials must be provided to each student. The materials may be provided electronically unless an individual student requests that the materials be provided on paper.

r. The training manager shall allow the department to audit the training program to verify the contents of the application for approval and for reapproval.

s. The training program shall maintain, and make available to the department, upon request, the following records:

(1) All documents specified in 70.4(2)*"f."*

(2) Current curriculum/course materials and documents reflecting any changes made to these materials.

(3) The course test blueprint and the course test.

(4) Information regarding how the hands-on assessment is conducted including but not limited to who conducts the assessment, how the skills are graded, what facilities are used, and the pass/fail rate.

(5) The quality control plan as described in 70.4(1)*"i."*

(6) A file for each student who has completed a course. Each student file shall contain the following:

1. The student's name, address, and telephone number.
2. The student's test and answer sheet.
3. A copy of the student's course completion certificate.
4. A copy of the student's hands-on skill assessment, if applicable.
5. A photograph of the student as taken by the training program.

(7) A file for each individual course that has been offered. Each file shall include the following:

1. The dates of the course.
2. The location of the course.
3. The instructors who taught the course.
4. A paper or electronic copy of the curriculum used for the course.
5. A copy of the test used for the course.
6. Documentation of the times that each student was present at the course, including documentation of how a student made up missed time.
7. The course evaluations.

(8) Any other materials that have been submitted to the department as part of the program's application for approval.

t. The training program shall retain all required records at the address specified on the training program approval application for a minimum of six years.

u. The training program shall notify the department within 30 days of changing the address specified on its training program approval application or transferring the records from that address.

v. A training program shall notify the department at least seven days in advance of offering an approved course. The notification shall include the date(s), time(s), and location(s) where the approved course will be held. A training program shall notify the department at least 24 hours in advance of canceling an approved course.

w. The training program will take a digital photograph of each student. The digital photograph shall be the same photograph that appears on the training certificate and is submitted to the department. The photograph shall meet the following specifications:

(1) The individual will be facing the camera.

(2) The individual's head will not be tilted.

(3) The individual's head will cover approximately half of the photo area.

(4) The individual will be in front of a neutral or light-colored background.

(5) The individual will not wear any items that detract from the face, such as hats or sunglasses. Only head coverings worn for religious reasons may be worn. Religious head coverings may not cover the face of the individual.

(6) Photographs will be 24-bit color depth.

x. A training program shall roster each student who has taken the approved course into a database specified by the department. All students shall be rostered into the department database within 20 days of conclusion of an approved course. Rostering shall include:

(1) Name and address.

(2) Course completion certificate number.

(3) Test score.

(4) The photograph of each student as taken by the training program in a format specified by the department.

70.4(2) If a training program desires approval of a course by the department, the training program will apply to the department for approval at least 90 days before the initial offering of the course. The department may allow courses to be offered sooner if the department completes the approval in less than 90 days. The application shall include:

a. Training program name, contact person, address, email address, and telephone number.

b. Course for which approval is sought.

c. Course locations, including a description of the facilities and equipment to be used for lecture and hands-on training.

d. Course agenda, including approximate times allotted to each training segment.

e. A copy of each reference material, text, student manual, instructor manual, and audiovisual material used in the course.

f. The name(s) and qualifications of the training manager, principal instructor(s), and guest instructor(s). The following documents shall be submitted as evidence that training managers and

principal instructors have the education, work experience, training requirements, or demonstrated experience required by 70.4(1):

(1) Official transcripts or diplomas as evidence of meeting the education requirements.

(2) Résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(3) Certificates from lead-specific training courses, as evidence of meeting the training requirements.

g. A copy of the course test blueprint.

h. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

i. Maximum class size.

j. A copy of the quality control plan for the course.

k. A nonrefundable fee of $200.

70.4(3) To be approved for the training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors, a course must be at least 40 training hours with a minimum of 12 hours devoted to hands-on training activities (*). Lead inspector/risk assessor and elevated blood lead (EBL) inspector/risk assessor training courses will cover at least the following subjects:

a. Role and responsibilities of an inspector/risk assessor.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing to determine if a property is free of lead-based paint as specified in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development), and methods to determine if lead-based paint hazards are present in a property.*

e. Paint, dust, and soil sampling methodologies.*

f. Clearance standards and testing, including random sampling.*

g. Collection of background information to perform a risk assessment.

h. Sources of environmental lead contamination such as paint, surface dust and soil, and water.

i. Visual inspection to identify lead-based paint hazards.*

j. Lead hazard screen protocol.

k. Visual risk assessment protocol.

l. Reevaluation protocol.

m. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint.*

n. In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

o. Sampling for other sources of lead exposure.*

p. Interpretation of lead-based paint and other lead sampling results, including all applicable federal, state, and local guidance or regulations pertaining to lead-based paint hazards.*

q. Development of lead hazard control options.

r. The role of interim controls, operation and maintenance activities, and renovation in reducing lead-based paint hazards.

s. Approved methods for conducting lead-based paint abatement, interim controls, operation and maintenance activities, and renovation.

t. Prohibited methods for conducting lead-based paint abatement, interim controls, operation and maintenance activities, and renovation.

u. Interior dust abatement and cleanup.

v. Soil and exterior dust abatement and cleanup.

w. Preparation of the final reports for lead inspections, lead-free inspections, risk assessments, visual assessments, lead hazard screens, clearance testing after lead abatement, clearance testing after renovation, reevaluation, and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35.

x. Recordkeeping.

70.4(4) To be approved for the training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors who have already completed an approved sampling technician course, a course must be at least 20 training hours with a minimum of 8 hours devoted to hands-on training activities (*). The training course shall cover at least the following subjects:

a. Role and responsibilities of a lead inspector/risk assessor and elevated blood lead (EBL) inspector/risk assessor.

b. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing to determine if a property is free of lead-based paint as specified in the work practice standards in 641—70.6(10A), and methods to determine if lead-based paint hazards are present in a property.*

c. Collection of background information to perform a risk assessment.

d. Lead hazard screen protocol.

e. Reevaluation protocol.

f. Sampling for other sources of lead exposure.*

g. Interpretation of lead-based paint and other lead sampling results, including all applicable federal, state, and local guidance or regulations pertaining to lead-based paint hazards.*

h. Development of lead hazard control options, including lead abatement.*

i. The role of interim controls, operation and maintenance activities, and renovation in reducing lead-based paint hazards.

j. Approved methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.

k. Prohibited methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.

l. Preparation of the final reports for lead inspections, lead-free inspections, risk assessments, lead hazard screens, reevaluation, and clearance testing after lead abatement.

m. Recordkeeping.

70.4(5) To be approved for the training of elevated blood lead (EBL) inspector/risk assessor, a course must be at least a four-hour training course and shall cover at least the following subjects:

a. Role and responsibility of an elevated blood lead (EBL) inspector/risk assessor.

b. Background information on childhood lead poisoning prevention programs in Iowa.

c. EBL lead inspection protocol described in this chapter and the EBL inspection protocol recommended by HUD.

d. Environmental and medical case management of lead-poisoned children.

e. Health effects of lead poisoning including an in-depth review of the scientific studies demonstrating the health effects of lead poisoning.

f. Chelation therapy including at what levels it is recommended and when it might not be needed.

g. Risk of childhood lead exposure from adult occupations or hobbies.

h. Case scenarios.*

70.4(6) To be approved for the training of lead abatement contractors, a course must be at least 40 training hours with a minimum of 12 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Role and responsibilities of a lead abatement contractor.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Liability and insurance issues relating to lead abatement, interim controls, and renovation.

e. Identification of lead-based paint and lead-based paint hazards.*

f. Interpretation of lead inspection reports.*

g. Development and implementation of an occupant protection plan, lead abatement report, and renovation report.

h. Respiratory protection and protective clothing.*

i. Employee information and training.

j. Approved methods for conducting lead abatement, interim controls, and renovation.*

k. Prohibited methods for conducting lead abatement, interim controls, and renovation.

l. Interior dust abatement and cleanup.*

m. Soil and exterior dust abatement and cleanup.*

n. Clearance standards and testing, including random sampling.

o. Cleanup, waste handling, and waste disposal.

p. In the case of renovation, interior and exterior containment and cleanup methods.*

q. In the case of renovation, providing on-the-job training to other workers.*

r. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*

s. In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

t. In the case of renovation, record preparation and recordkeeping.

u. Recordkeeping for lead abatement.

70.4(7) To be approved for the training of lead abatement contractors who have already completed an approved lead abatement worker course, a course must be at least 16 training hours with a minimum of 4 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Role and responsibilities of a lead abatement contractor.

b. Liability and insurance issues relating to lead abatement.

c. Interpretation of lead inspection reports.*

d. Development and implementation of an occupant protection plan and abatement report.

e. Employee information and training.

f. Clearance standards and testing, including random sampling.

g. Recordkeeping for lead abatement.

70.4(8) To be approved for the training of lead abatement workers, a course must be at least 24 training hours with a minimum of 8 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Role and responsibilities of a lead abatement worker.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Identification of lead-based paint and lead-based paint hazards.*

e. Approved methods for conducting lead abatement, interim controls, and renovation.*

f. Prohibited methods for conducting lead abatement, interim controls, and renovation.

g. Interior dust abatement and cleanup.*

h. Soil and exterior dust abatement and cleanup.*

i. Cleanup, waste handling, and waste disposal.

j. Respiratory protection and protective clothing.*

k. Personal hygiene.

l. In the case of renovation, interior and exterior containment and cleanup methods.*

m. In the case of renovation, providing on-the-job training to other workers.*

n. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*

o. In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

p. In the case of renovation, record preparation and recordkeeping.

70.4(9) To be approved for the training of sampling technicians, a course must be at least 20 training hours with a minimum of 4 hours devoted to hands-on training activities (*). The training course shall cover at least the following subjects:

a. Role and responsibilities of a sampling technician.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Methods of conducting visual risk assessments.*

e. Paint, dust, and soil sampling methodologies.*

f. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint.*

g. Clearance standards and testing.*

h. Identification of lead-based paint hazards.*

i. Sources of environmental lead contamination such as paint, surface dust and soil, and water.

j. Visual inspection to identify lead-based paint hazards.*

k. Approved methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.

l. Prohibited methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.

m. Methods of interim controls and lead abatement for interior dust and cleanup.

n. Methods of interim controls and lead abatement for exterior dust and soil and cleanup.

o. Preparation of the final visual assessment report.

p. Preparation of clearance testing reports for clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35.

q. Recordkeeping.

70.4(10) To be approved for the training of project designers, a course must be at least 48 instructional training hours with a minimum of 12 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Role and responsibilities of a lead abatement contractor.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Liability and insurance issues relating to project design.

e. Identification of lead-based paint and lead hazards.*

f. Interpretation of lead inspection reports.*

g. Development and implementation of an occupant protection plan, lead abatement report, and renovation report.

h. Respiratory protection and protective clothing.*

i. Employee information and training.

j. Approved methods for conducting lead abatement, interim controls, and renovation.*

k. Prohibited methods for conducting lead abatement, interim controls, and renovation.

l. Interior dust abatement and cleanup.*

m. Soil and exterior dust abatement and cleanup.*

n. Clearance standards and testing, including random sampling.

o. Cleanup, waste handling, and waste disposal.

p. In the case of renovation, providing on-the-job training to other workers.*

q. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*

r. In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

s. In the case of renovation, record preparation and recordkeeping.

t. Recordkeeping for lead abatement.

u. Role and responsibilities of a project designer.

v. Development and implementation of an occupant protection plan for large-scale lead abatement projects.

w. Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.

x. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.

y. Clearance standards and testing for large-scale lead abatement projects.

z. Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(11) To be approved for the training of project designers who have already completed an approved lead abatement contractor course, a course must be at least eight instructional training hours and shall cover at least the following subjects:

a. Role and responsibilities of a project designer.

b. Development and implementation of an occupant protection plan for large-scale abatement projects.

c. Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.

d. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.

e. Clearance standards and testing for large-scale lead abatement projects.

f. Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(12) To be approved for the training of project designers who have already completed an approved lead abatement worker course, a course must be at least 24 instructional training hours with a minimum of 4 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Role and responsibilities of a lead abatement contractor.

b. Liability and insurance issues relating to lead abatement.

c. Interpretation of lead inspection reports.*

d. Development and implementation of an occupant protection plan and lead abatement report.

e. Employee information and training.

f. Clearance standards and testing, including random sampling.

g. Recordkeeping.

h. Role and responsibilities of a project designer.

i. Development and implementation of an occupant protection plan for large-scale lead abatement projects.

j. Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.

k. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.

l. Clearance standards and testing for large-scale lead abatement projects.

m. Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(13) To be approved for the training of lead-safe renovators, a course must be at least eight instructional training hours with a minimum of two hours devoted to hands-on activities (*) and shall cover at least the following subjects:

a. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

b. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint, lead-based paint activities, and renovation activities.

c. Procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*

d. Renovation methods to minimize the creation of dust and lead-based paint hazards.*

e. Prohibited methods of renovation.

f. Interior and exterior containment and cleanup methods.*

g. Methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

h. Waste handling and disposal.

i. Providing on-the-job training to other workers.*

j. Record preparation and recordkeeping.

70.4(14) To be approved for refresher training of sampling technicians, lead abatement contractors, lead abatement workers, and project designers, a course must be at least eight training hours. To be approved for refresher training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors who completed an approved 24-hour training course, a course must be at least 8 training hours to meet the recertification requirements of 70.5(3). To be approved for refresher training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors to meet the recertification requirements of 70.5(6), a course must be at least 16 training hours. To be approved for refresher training of lead-safe renovators, a course must be at least four hours and must include a hands-on component. All refresher training courses shall cover at least the following topics:

a. A review of the curriculum topics of the initial certification course for the appropriate discipline as listed in 70.4(3) through 70.4(13).

b. An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

c. Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

d. Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

70.4(15) Approvals of training courses shall expire three years after the date of issuance. The training manager will submit the following at least 30 days prior to the expiration date for a course to be reapproved:

a. Sponsoring organization name, contact person, address, and telephone number.

b. A list of the courses for which reapproval is sought.

c. A description of any changes to the training staff, facility, equipment, or course materials since the approval of the training program.

d. A statement signed by the training manager stating that the training program complies at all times with 641—70.4(10A).

e. A nonrefundable fee of $200.

70.4(16) The department shall consider a request for approval of a training course that has been approved by a state or tribe authorized by the U.S. Environmental Protection Agency.

a. The course shall be approved if it meets the requirements of 641—70.4(10A).

b. If the course does not meet all of the requirements of 641—70.4(10A), the department shall inform the training provider of additional topics and training hours that are needed to meet the requirements of 641—70.4(10A).

641—70.5(10A) Certification, interim certification, and recertification. The department issues certifications and recertifications for a three-year time period. Applications for certification or recertification may be made electronically in a format specified by the department or using a paper application supplied by the department.

70.5(1) To become a certified lead professional, provide the following information:

a. A completed application form.

b. A certificate of completion of an approved course for the discipline in which the applicant intends to become certified.

c. If intending to become a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor, documentation of successful completion of the manufacturer's training course or equivalent for the X-ray fluorescence (XRF) analyzer that the inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use to conduct lead inspections.

d. If intending to become a certified elevated blood lead (EBL) inspector/risk assessor, documentation of successful completion of a four-hour elevated blood lead (EBL) inspector/risk assessor course.

e. Documentation that the applicant meets the additional experience and education requirements in 70.5(2) for the discipline in which the applicant intends to become certified. The following documents will be submitted as evidence that the applicant has the education and work experience required by 70.5(2):

(1) Official transcripts or diplomas as evidence of meeting the education requirements.

(2) Résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

f. To become certified as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, or project designer, a certificate showing that the applicant has passed the state certification examination in the discipline in which the applicant intends to become certified.

g. A $180 nonrefundable fee.

h. A person may receive interim certification from the department as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, or project designer by submitting the items required by 70.5(1)*"a"* through *"e"* and *"g"* to the department. Interim certification expires six months from the date of completion of an approved course. An applicant may upgrade an interim certification to a certification by submitting a certificate to the department showing that the applicant has passed the state certification examination as required by 70.5(1)*"f."* Interim certification is equivalent to certification.

70.5(2) To become certified as a lead professional, an applicant must meet the education and experience requirements for the appropriate discipline:

a. Lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors must meet one of the following requirements:

(1) Bachelor's degree and one year of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(2) Associate's degree and two years of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(3) High school diploma and three years of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(4) Certification as an industrial hygienist, professional engineer, registered architect, registered sanitarian, registered environmental health specialist, or registered nurse.

b. Lead abatement contractors must meet one of the following requirements:

(1) One year of experience as a certified lead abatement worker.

(2) Two years of related experience or education (e.g., lead, housing inspection, building trades, property management and maintenance).

c. No additional education or experience is mandated for lead abatement workers.

d. Sampling technicians must meet one of the following requirements:

(1) Associate's degree.

(2) High school diploma and one year of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(3) Certification as an industrial hygienist, professional engineer, registered architect, registered sanitarian, registered environmental health specialist, or registered nurse.

e. Project designers must meet one of the following requirements:

(1) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field.

(2) Four years of experience in building construction and design or a related field.

f. No additional education or experience is mandated for lead-safe renovators.

70.5(3) Review of convictions.

a. Unless an applicant for licensure petitions the department for an eligibility determination pursuant to 70.5(3)*"b,"* the applicant's convictions will be reviewed when the department receives a completed certification application.

(1) An applicant must disclose all convictions on a certification application. Failure to disclose all convictions is grounds for certification denial or disciplinary action following certification issuance.

(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the certification application to be considered complete.

(3) An applicant should submit any evidence of rehabilitation that the applicant wishes to be considered by the department.

(4) The department may deny a certification if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

(5) An applicant with disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for certification.

(6) Application fees paid will not be refunded if the certification is denied.

b. An individual who has not yet submitted a completed certification application may petition the department for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for certification. To do so, a petitioner shall submit all of the following:

(1) A completed petition for eligibility determination form;

(2) The complete criminal record for each of the petitioner's convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the department should find the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the department; and

(5) Payment of a nonrefundable fee of $25.

c. A petitioner deemed ineligible or an applicant denied a certification because of a disqualifying offense may appeal the decision, in writing, within 20 days of the date of the department's written decision or in another manner and timeframe set forth in the department's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings at 481—Chapter 9 and 481—Chapter 10 apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the department's written decision becomes a final order.

d. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a certification application prior to the date specified in the final order. If a final order denies a certification application, the applicant may not submit a subsequent certification application or a petition for eligibility determination prior to the date specified in the final order.

70.5(4) Individuals applying for renewal as lead professionals must submit the following:

a. A completed application form.

b. A $180 nonrefundable fee.

c. A certificate showing that the applicant has successfully completed an approved refresher training course for the appropriate discipline. The refresher training course has to be completed no more than three years prior to the date of the application for recertification.

70.5(5) The department will approve the state certification examinations for the disciplines of lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, and project designer. The state certification examination shall be administered by selected community

college testing centers in Iowa. A community college testing center will set the fee for administering the state certification examination to each applicant and collect the fee from each applicant.

a. An individual must achieve a score of at least 80 percent on the examination. An individual may take the state certification examination no more than three times within six months of receiving a certificate of completion from an approved course.

b. If an individual does not pass the state certification examination within six months of receiving a certificate of completion from an approved course, the individual must retake the appropriate approved course before reapplying for certification.

70.5(6) Each applicant for certification who is certified in any of the disciplines specified in this rule in another state may request reciprocal certification. The department will evaluate the requirements for certification to determine that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa. For all disciplines except lead-safe renovator and lead abatement worker, if the department determines that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa, the applicant may be certified after passing a proctored test covering Iowa-specific lead information with a score of at least 80 percent. For a lead-safe renovator and lead abatement worker, if the department determines that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa, the applicant may be certified after signing a statement indicating that the applicant has read and understands Iowa-specific lead information provided by the department. Each applicant for certification pursuant to this subrule will submit the appropriate application accompanied by the fee for each discipline as specified in 641—70.5(10A).

641—70.6(10A) Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities. All lead-based paint activities shall be performed according to the work practice standards herein. A certified individual shall perform that activity in compliance with the standards herein.

70.6(1) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct a lead-free inspection according to the following standards. A lead-free inspection will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. When conducting a lead-free inspection in a residential dwelling, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) Except for components known to have been replaced after December 31, 1977, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. Except for walls, one sample will be taken for each testing combination in a room. Each wall in a room will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will require one of the following two types of evidence to determine that components were replaced after 1977:

1. Detailed specifications showing which components were to be replaced, restored, enclosed, or encapsulated and evidence that the work was actually completed such as receipts for building materials, city building records showing a date of remodeling, or a final inspection by the city or another inspector showing that the work was actually completed.

2. A certification under penalty of perjury per Iowa Code section 622.1 from the contractor who did the work or from the person(s) who owned the property at the time outlining all of the components that were removed and replaced.

If one of these two types of evidence is not available, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test the component.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will note any components where lead-based paint has been enclosed or encapsulated. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not make a determination that the residential dwelling is lead-free where components that are painted with lead-based paint have been enclosed or encapsulated.

(4) Paint will be tested using adequate quality control by X-ray fluorescence (XRF) or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use standards provided by the manufacturer and the NIST 1.02 standard film for calibration of the X-ray fluorescence analyzer.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection, every four hours, and at the end of the inspection.

4. Prior to taking the final set of calibration readings and if recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by

collecting paint samples for laboratory analysis. If instructed by the property owner or the person requesting the report, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that inconclusive readings are positive, but will not assume that inconclusive readings are negative.

7. As described by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct retesting of 10 surfaces, calculate the retest tolerance limit, and determine whether the inspection meets the retest tolerance limit. If the retest tolerance limit is not met, then this procedure will be repeated with 10 additional surfaces. If the retest tolerance limit is not met with the 20 retested surfaces, then all results of the inspection will be considered invalid.

(5) If each testing combination in the residential dwelling is found to be free of lead-based paint, then the residential dwelling is free of lead-based paint. If any surface in the residential dwelling is found to be painted with lead-based paint, then the residential dwelling is not free of lead-based paint.

(6) If lead-based paint is identified through a lead-free inspection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

(7) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a lead-free inspection is completed. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the lead-free inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

1. A statement that the inspection was conducted to determine whether the residential dwelling is free of lead-based paint;
2. Date of inspection;
3. Address of building;
4. Date of construction;
5. Apartment numbers (if applicable);
6. The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
7. Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;
8. Name and certification number of the certified firm(s) conducting the inspection;
9. Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
10. Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) device;
11. XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated at each required calibration;
12. Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;
13. The results of retesting of ten surfaces, calculations to determine the retest tolerance limit, and the determination of whether the inspection meets the retest tolerance limit;
14. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that the residential dwelling is free of lead-based paint, the report will contain the following statement:

"The results of this inspection indicate that no lead in amounts greater than or equal to 1.0 mg/cm2 in paint was found on any building components, using the inspection protocol in Chapter 7 of the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development). Therefore, this residential dwelling qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint, as defined in the rule. However, some painted surfaces may contain levels of lead below 1.0 mg/cm2, which could create lead dust or lead-contaminated soil hazards if the paint is turned into dust by abrasion, scraping, or sanding. This report should be kept by the owner and all future owners for the life of the residential dwelling. Per the disclosure requirements of 24 CFR Part 35 and 40 CFR Part 745, prospective buyers are entitled to all available inspection reports should the property be resold.";

15. If any lead-based paint is identified, a description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

16. A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

17. Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

18. Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation, remodeling and repainting found in 641—Chapter 70; and

19. The report will contain the following statement:

"The Iowa Department of Inspections, Appeals, & Licensing may review this report for compliance purposes. It is a violation of law for anyone other than the certified lead professional signing it to alter this report. This report may be supplemented with additional information, so long as any addendum is signed by a lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified according to Iowa Administrative Code 641—70.3(10A) and 70.5(10A)."

b. When conducting a lead-free inspection in multifamily housing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) A certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may randomly select residential dwellings for testing when conducting a lead-free inspection in multifamily housing. If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least 10 similarly constructed and maintained residential dwellings in order to use random selection. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not randomly select the residential dwellings for testing or if there are not enough residential dwellings to randomly select them for sampling, all residential dwellings will be tested. If random selection is used, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor conducting the lead-free inspection will randomly select the residential dwellings to be tested. The property owner, manager, or another interested party will not specify which residential dwellings are to be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

Table 1

Minimum Number of Residential Dwellings to be Randomly Selected in Multifamily Housing for Lead-Free Inspection, Risk Assessment, Lead Hazard Screen, or Clearance Testing

Number of Similar Residential Dwellings, Similar Common Areas, or Similar Exteriors in Multifamily Housing	Lead-Free Inspection, Risk Assessment, or Lead Hazard Screen		Clearance Testing
	Number of Pre-1960 Residential Dwellings or Residential Dwellings of Unknown Date of Construction to Randomly Select for Testing	Number of 1960-1977 Residential Dwellings to Randomly Select for Testing	Number of Residential Dwellings to Randomly Select for Clearance Testing
1-9	All	All	All
10-13	All	10	All
14	All	11	All
15	All	12	All
16-17	All	13	All
18	All	14	All
19	All	15	All
20	All	16	All
21-26	20	16	20
27	21	17	21
28	22	18	22
29	23	18	23
30	23	19	23
31	24	19	24
32	25	19	25
33-34	26	19	26
35	27	19	27
36	28	19	28
37	29	19	29
38-39	30	20	30
40-48	31	21	31
49-50	31	22	31
51	32	22	32
52-53	33	22	33
54	34	22	34
55-56	35	22	35
57-58	36	22	36
59	37	23	37
60-69	38	23	38
70-73	38	24	38
74-75	39	24	39
76-77	40	24	40
78-79	41	24	41
80-88	42	24	42
89-95	42	25	42
96-97	43	25	43
98-99	44	25	44
100-109	45	25	45
110-117	45	26	45
118-119	46	26	46
120-138	47	26	47
139-157	48	26	48
158-159	49	26	49
160-177	49	27	49
178-197	50	27	50
198-218	51	27	51
219-258	52	27	52

Number of Similar Residential Dwellings, Similar Common Areas, or Similar Exteriors in Multifamily Housing	Lead-Free Inspection, Risk Assessment, or Lead Hazard Screen		Clearance Testing
	Number of Pre-1960 Residential Dwellings or Residential Dwellings of Unknown Date of Construction to Randomly Select for Testing	Number of 1960-1977 Residential Dwellings to Randomly Select for Testing	Number of Residential Dwellings to Randomly Select for Clearance Testing
259-279	53	27	53
280-299	53	28	53
300-379	54	28	54
380-499	55	28	55
500-776	56	28	56
777-939	57	28	57
940-1004	57	29	57
1005-1022	58	29	58
1023-1032	59	29	59
1033-1039	59	30	59
1040+	5.8%, rounded to the next highest whole number	2.9%, rounded to the next highest whole number	5.8%, rounded to the next highest whole number

(2) A certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may randomly select each type of common area in the multifamily housing, including but not limited to hallways, exterior sides of a building, and laundry rooms, for testing. Each type of common area will be counted separately. If built before 1960, the multifamily housing will contain at least 20 of a type of common area in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten of a type of common area in order to use random selection. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not randomly select the common areas for testing or if there are not enough common areas to randomly select them for testing, all common areas will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of each type of common area to randomly select for testing.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room of each residential dwelling selected for testing and in each common area selected for testing.

(4) Except for components known to have been replaced after December 31, 1977, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room of a residential dwelling chosen for testing and in each common area chosen for testing. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. Each wall in a room or a common area will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will require one of the following two types of evidence to determine that components were replaced after 1977:

1. Detailed specifications showing which components were to be replaced, restored, enclosed, or encapsulated and evidence that the work was actually completed such as receipts for building materials, city building records showing a date of remodeling, or evidence of a final inspection by the city or another inspector showing that the work was actually completed.

2. A certification under penalty of perjury per Iowa Code section 622.1 from the contractor who did the work or from the person(s) who owned the property at the time outlining all of the components that were removed and replaced.

If one of these two types of evidence is not available, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test the component.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will note any components where lead-based paint has been enclosed or encapsulated. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not make a

determination that a component or the multifamily housing is lead-free where components that are painted with lead-based paint have been enclosed or encapsulated.

(6) Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not use an X-ray fluorescence analyzer using a software version or a mode of operation that could result in inconclusive readings or that recommends substrate correction.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use standards provided by the manufacturer and the NIST 1.02 standard film for calibration of the X-ray fluorescence analyzer.

4. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection, every four hours, and at the end of the inspection.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading as positive or negative according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will count the number of XRF readings taken for each component type. If fewer than 40 of any component type were tested, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will randomly choose additional testing combinations for the component type to reach a total of 40 XRF readings. If fewer than 40 testing combinations are available for testing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination.

(7) For each component type where at least 40 testing combinations have been tested, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine the number and percentage of each component type that is classified as positive or negative. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each component type as follows:

1. Lead-based paint is not present on a component type if all readings are classified as negative.

2. Lead-based paint is present on a component type if at least 15 percent of the readings are classified as positive.

3. Lead-based paint is present on a component type if greater than or equal to 5 percent but less than 15 percent of the XRF readings are classified as positive, unless the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor collects paint samples and obtains laboratory analyses for all positive XRF readings. If the laboratory analyses show that lead-based paint is not present on any components, then the component type is negative. If the laboratory analyses show that lead-based paint is present on any component, then the component type is positive.

4. Lead-based paint is present on a component type if greater than 0 but less than 5 percent of the XRF readings are classified as positive, unless the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor collects paint samples and obtains laboratory analyses for all positive XRF readings or randomly selects a second set of residential dwellings for testing. If the laboratory analyses show that lead-based paint is not present on any components, then the component type is negative. If the laboratory analyses show that lead-based paint is present on any component, then the component type is positive. If a second set of randomly selected residential dwellings is sampled and greater than 0 but less than 2.5 percent of the combined set of results is positive, the component type may be considered as not having lead-based paint development-wide but rather, having lead-based paint in isolated locations, with a reasonable degree of confidence. Individual components that are classified as positive should be considered lead-based painted and managed or abated appropriately.

5. If a particular component type in the sampled residential dwellings is classified as positive, that same component type in the unsampled residential dwellings is also classified as positive.

(8) If fewer than 40 of a component type are available for testing, each testing combination will be classified individually as positive or negative.

(9) If any component type or individual component is classified as positive, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that the multifamily housing is free of lead-based paint.

(10) As specified by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct retesting of ten surfaces selected from two residential dwellings, calculate the retest tolerance limit, and determine whether the inspection meets the retest tolerance limit. If the retest tolerance limit is not met, then this procedure will be repeated with ten additional surfaces selected from the two residential dwellings. If the retest tolerance limit is not met with the 20 retested surfaces, then all results of the inspection will be considered invalid.

(11) If lead-based paint is identified on any component or component type, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

(12) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility inspected. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The inspection report will include, at least:

1. Date of each inspection;
2. Address of each building in the multifamily housing;
3. Date of construction for each building in the multifamily housing;
4. A list of the apartments and common areas in each building in the multifamily housing;
5. The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
6. A statement that the inspection was conducted to determine that lead-based paint is not present;
7. The name of the Iowa-certified inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor who randomly selected the residential dwellings and common areas for testing;
8. The number of residential dwellings and common areas that were selected for testing, how these numbers were determined, and a list of the residential dwellings and common areas that were selected for testing;
9. Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;
10. Name and certification number of the certified firm(s) conducting the inspection;

11. Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

12. Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer;

13. XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated at each required calibration;

14. Specific locations by room of each painted component tested for the presence of lead-based paint and by residential dwelling or common area and the results for each component expressed in terms appropriate to the sampling method used;

15. Component aggregations and the determination of whether lead-based paint is present by component type;

16. The results of retesting of ten surfaces, calculations to determine the retest tolerance limit, and the determination of whether the inspection meets the retest tolerance limit;

17. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that the multifamily housing is free of lead-based paint, the report will contain the following statement:

"The results of this inspection indicate that no lead in amounts greater than or equal to 1.0 mg/cm2 in paint was found on any building components, using the inspection protocol in Chapter 7 of the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development). Therefore, this multifamily housing qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint, as defined in the rule. However, some painted surfaces may contain levels of lead below 1.0 mg/cm2, which could create lead dust or lead-contaminated soil hazards if the paint is turned into dust by abrasion, scraping, or sanding. This report should be kept by the owner and all future owners for the life of the multifamily housing. Per the disclosure requirements of 24 CFR Part 35 and 40 CFR Part 745, prospective buyers are entitled to all available inspection reports should the property be resold.";

18. If any lead-based paint is identified, a description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

19. A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

20. Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

21. Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69 and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

22. The report will contain the statement set forth in 70.6(1)*"a"*(7)"19."

70.6(2) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct lead inspections according to the following standards. Lead inspections will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. When conducting a lead inspection in a residential dwelling or child-occupied facility, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. One sample will be taken for each testing combination in a room, including the walls. If a testing combination is painted and not tested, it will be assumed to be painted with lead-based paint.

b. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/

risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

c. If lead-based paint is identified through an inspection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

d. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility inspected. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The inspection report will include, at least:

(1) A statement that the inspection was conducted to identify lead-based paint and lead-based paint hazards in the residential dwelling;

(2) Date of each inspection;

(3) Address of building;

(4) Date of construction;

(5) Apartment numbers (if applicable);

(6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(7) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;

(8) The name and certification number of the certified firm(s) conducting the inspection;

(9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer;

(11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

(13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or

enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(18) The report will contain the statement as set forth in 70.6(1)*"a"*(7)"19."

70.6(3) A certified elevated blood lead (EBL) inspector/risk assessor will conduct elevated blood lead (EBL) inspections according to the following standards. Elevated blood lead (EBL) inspections will be conducted only by a certified elevated blood lead (EBL) inspector/risk assessor. This protocol may be used for children who do not meet the definition of an EBL child as defined in this chapter as long as the inspection is authorized by the department, a local board of health, or a public housing agency.

a. When conducting an elevated blood lead (EBL) inspection, the certified elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) The certified elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. One sample will be taken for each testing combination in a room, including walls. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. If a testing combination is painted and not tested, it will be assumed to be painted with lead-based paint.

b. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(3) The certified elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF

reading. If the certified elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings, then the certified elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

c. If lead-based paint is identified through an elevated blood lead (EBL) inspection, the certified elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

d. No later than two weeks after the receipt of laboratory results, a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where an elevated blood lead (EBL) inspection has been conducted and will provide a copy of this report to the property owner and the occupant of the dwelling. The report will include, at least:

(1) A statement that the elevated blood lead (EBL) inspection was conducted to identify lead-based paint and lead-based paint hazards in the residential dwelling;

(2) Date of each elevated blood lead (EBL) inspection;

(3) Address of building;

(4) Date of construction;

(5) Apartment numbers (if applicable);

(6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(7) Name, signature, and certification number of each certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;

(8) Name and certification number of the certified firm(s) conducting the inspection;

(9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer;

(11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

(13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(18) The report will contain the statement set forth in 70.6(1)*"a"*(7)"19."

e. A certified elevated blood lead (EBL) inspector/risk assessor will maintain for no fewer than ten years a written record for each residential dwelling or child-occupied facility where an elevated blood lead (EBL) inspection has been conducted. The record will include, at least:

(1) A copy of the written report required by 70.6(3)*"d."*

(2) Blood lead test results for the elevated blood lead (EBL) child.

(3) A record of conversations held with the owners and occupants of each residential dwelling or child-occupied facility prior to, during, and after the EBL inspection.

(4) Records of follow-up visits made to each residential dwelling or child-occupied facility where lead-based paint hazards are identified and, when issued, a copy of the clearance report.

70.6(4) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct lead hazard screens according to the following standards. Lead hazard screens will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection of the residential dwelling or child-occupied facility will be conducted to determine if any deteriorated paint is present and to locate at least two dust sampling locations.

c. If deteriorated paint is present, each surface with deteriorated paint that is determined to have a distinct painting history will be tested for the presence of lead. In addition, friction surfaces where there is evidence of abrasion and impact surfaces that are damaged or otherwise deteriorated from impact and that have a distinct painting history will be tested for the presence of lead.

d. In residential dwellings, a minimum of two composite or single-surface dust samples will be collected. One sample will be collected from the floors and the other from the interior windowsills in rooms, hallways, or stairwells where at least one child under the age of six years is most likely to come in contact with dust.

e. In multifamily dwellings and child-occupied facilities, single-surface or composite dust samples will also be collected from common areas where at least one child under the age of six years is likely to come in contact with dust.

f. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

g. Soil samples will be collected and analyzed for lead content in exterior play areas and dripline areas where bare soil is present. In addition, soil samples will be collected and analyzed for lead content from any other areas of the yard where bare soil is present. Soil and paint samples will be collected using the documented methodologies specified in guidance documents issued by the department and will be analyzed by a recognized laboratory to determine the level of lead.

h. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If

testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the National Institute of Standards and Technology 1.02 milligrams of lead per square centimeter standard reference material or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis,

then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

i. The following standards will be used to determine whether a residential dwelling or child-occupied facility fails a lead hazard screen:

(1) A residential dwelling or child-occupied facility will fail a lead hazard screen if any deteriorated paint or paint on friction or impact surfaces is found to be lead-based paint.

(2) A residential dwelling will fail a lead hazard screen if any floor dust lead level in a single-surface or composite-surface dust sample is greater than or equal to 25 micrograms per square foot.

(3) A residential dwelling will fail a lead hazard screen if any interior windowsill dust level in a single-surface or composite-surface dust sample is greater than or equal to 125 micrograms per square foot.

(4) A residential dwelling or child-occupied facility will fail a lead hazard screen if any bare soil is found to be a soil-lead hazard.

j. When conducting a lead hazard screen in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible:

1. The residential dwelling has been cited with a housing or building code violation within the past year.

2. The property owner believes that the residential dwelling is in poor condition.

3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.

4. The residential dwelling serves as a day care facility.

5. The residential dwelling has been prepared for reoccupancy within the past three months. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly.

Table 2

Minimum Number of Residential Dwellings in Multifamily Housing for Risk Assessment or Lead Hazard Screen Through Targeted Selection

Number of Similar Residential Dwellings	Number of Residential Dwellings to Sample*
1-4	All
5-20	4 residential dwellings or 50% (whichever is greater)**
21-75	10 residential dwellings or 20% (whichever is greater)**
76-125	17
126-175	19

Number of Similar Residential Dwellings	Number of Residential Dwellings to Sample*
176-225	20
226-300	21
301-400	22
401-500	23
501+	24 + 1 residential dwelling for each additional increment of 100 residential dwellings or less

*Does not include residential dwellings housing children with elevated blood lead levels.
**For percentages, round up to determine number of residential dwellings to be sampled.

k. If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

l. The following standards will be used to determine whether multifamily housing fails a lead hazard screen:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust lead levels for carpeted floors, uncarpeted floors, and interior windowsills. If the arithmetic mean for carpeted floors or uncarpeted floors is greater than or equal to 25 micrograms per square foot, the multifamily housing will fail the lead hazard screen. If the arithmetic mean for interior windowsills is greater than or equal to 125 micrograms per square foot, the multifamily housing will fail the lead hazard screen. If the arithmetic mean for carpeted floors or uncarpeted floors is less than 25 micrograms per square foot, but some of the samples have dust lead levels that are greater than or equal to 25 micrograms per square foot, then the residential dwellings where these samples were taken and all other similar residential dwellings in the multifamily housing will fail the lead hazard screen. If the arithmetic mean for interior windowsills is less than 125 micrograms per square foot, but some of the samples have dust lead levels that are greater than or equal to 125 micrograms per square foot, then the residential dwellings where these samples were taken and all other similar residential dwellings in the multifamily housing will fail the lead hazard screen.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined to not be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings. If a component in a residential dwelling is determined or assumed to be lead-based paint, then the entire group of similar residential dwellings in the multifamily housing will fail the lead hazard screen.

(3) Multifamily housing will fail a lead hazard screen if any bare soil is found to be a soil-lead hazard.

m. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a lead hazard screen is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the lead hazard screen, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

(1) Date of each lead hazard screen.

(2) Address of building.

(3) Date of construction.

(4) Apartment numbers (if applicable).

(5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.

(6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the lead hazard screen.

(7) Name and certification number of the certified firm(s) conducting the lead hazard screen.

(8) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(9) Results of the visual inspection.

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer.

(11) If used, XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated.

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component tested expressed in terms appropriate to the sampling method used.

(13) All results of laboratory analysis of collected paint, dust, and soil samples. The results of dust sampling will be reported in micrograms of lead per square foot, and the results of soil sampling will be reported in parts per million of lead. Results will not be reported as "not detectable."

(14) Any other sampling results.

(15) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint.

(16) Background information collected regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years.

(17) Whether the residential dwelling or child-occupied facility passed or failed the lead hazard screen and recommendations, if warranted, for a follow-up lead inspection or risk assessment, and, as appropriate, any further actions.

(18) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

(19) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70.

(20) The report will contain the statement set forth in 70.6(1)*"a"*(7)"19."

70.6(5) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct risk assessments according to the following standards. Risk assessments will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection for risk assessment will be undertaken to locate the existence of deteriorated paint and other potential lead hazards and to assess the extent and causes of the paint deterioration.

c. If deteriorated paint is present, each surface with deteriorated paint that is determined to have a distinct painting history will be tested for the presence of lead.

d. Friction surfaces where there is evidence of abrasion and impact surfaces that are damaged or otherwise deteriorated from impact and that have a distinct painting history will be tested for the presence of lead.

e. In residential dwellings, dust samples will be collected from the interior windowsill, window trough, and floor in all living areas where at least one child is most likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

f. In multifamily dwellings, dust samples will also be collected from interior windowsills, window troughs, and floors in common areas adjacent to the sampled residential dwellings or child-occupied facility and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

g. In child-occupied facilities, dust samples will be collected from the interior windowsill, window trough, and floor in each room, hallway, or stairwell utilized by one or more children under the age of six years and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

h. Soil samples will be collected and analyzed for lead content in exterior play areas and dripline areas where bare soil is present. In addition, soil samples will be collected and analyzed for lead content from any other areas of the yard where bare soil is present.

i. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet. Soil and paint samples will be collected using the documented methodologies specified in guidance documents issued by the department. Dust and soil samples will be analyzed by a recognized laboratory to determine the level of lead. The results of dust sampling will be reported in micrograms of lead per square foot, and the results of soil sampling will be reported in parts per million of lead. The results will not be reported as "not detectable."

j. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department.

(1) If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film material or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(2) Subparagraphs 70.6(4)*"h"*(3) through 70.6(4)*"h"*(6) are restated as if fully set forth herein.

k. When conducting a risk assessment in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random

selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly. Targeted selection criteria are as follows:

1. The residential dwelling has been cited with a housing or building code violation within the past year.
2. The property owner believes that the residential dwelling is in poor condition.
3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.
4. The residential dwelling serves as a day care facility.
5. The residential dwelling has been prepared for reoccupancy within the past three months.

(3) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

(4) The following standards will be used to determine the extent of lead-based paint hazards throughout multifamily housing that is sampled by random selection, targeted selection, or worst case selection:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust lead levels for carpeted floors, uncarpeted floors, interior windowsills, and window troughs. If the arithmetic mean is greater than or equal to the level defined as a dust lead hazard for the component, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust lead hazard has been identified on the component throughout the multifamily housing. If the arithmetic mean is less than the level defined as a dust lead hazard for the component, but some of the individual components have dust lead levels that are greater than or equal to the level defined as a dust lead hazard, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust lead hazard has been identified on the individual components and on all other similar components throughout the multifamily housing.
2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined to not be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings.

l. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a risk assessment is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the risk assessment, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of the report for no less than three years. The report will include, at least:

(1) Date of each risk assessment;

(2) Address of building;

(3) Date of construction;

(4) Apartment numbers (if applicable);

(5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the risk assessment;

(7) Name and certification number of the certified firm(s) conducting the risk assessment;

(8) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b));

(9) Results of the visual inspection;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer;

(11) If used, XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component tested expressed in terms appropriate to the sampling method used;

(13) All results of laboratory analysis of collected paint, dust, and soil samples;

(14) Any other sampling results;

(15) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(16) Background information collected regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years;

(17) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint hazards;

(18) A description of the location, type, and severity of identified lead-based paint hazards, and any other potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(19) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(20) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(21) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(22) The report will contain the statement set forth in 70.6(1)*"a"*(7)"19."

70.6(6) A certified lead abatement contractor or certified lead abatement worker will conduct lead abatement according to the following standards. Lead abatement will be conducted only by a certified lead abatement contractor or a certified lead abatement worker.

a. A certified lead abatement contractor will be on site during all work site preparation and during the postabatement cleanup of work areas. At all other times when lead abatement is being conducted, the certified lead abatement contractor will be on site or available by telephone or answering service, and be able to be present at the work site in no more than two hours.

b. A certified lead abatement contractor will ensure that lead abatement is conducted according to all federal, state, and local requirements.

c. A certified lead abatement contractor will notify the department in writing at least seven days prior to the commencement of lead abatement in a residential dwelling or child-occupied facility. The notification will include the following information:

(1) The address, including apartment numbers, where lead abatement will be conducted.

(2) The dates when lead abatement will be conducted.

(3) The name, address, telephone number, Iowa certification number, and signature of the contact for the certified firm that will conduct the work.

(4) The name, address, telephone number, Iowa certification number, and signature of the certified lead abatement contractor who will serve as the contact person for the project.

(5) The name, address, and telephone number of the property owner.

(6) Whether the dwelling is owner-occupied or a rental dwelling.

(7) If the dwelling is an occupied rental, the names of the occupants.

(8) The approximate year that the dwelling was built.

(9) A brief description of the lead abatement work to be done.

d. A certified lead abatement contractor will submit a revised notification to the department if any information in the original notification changes.

e. A certified lead abatement contractor will ensure that the worksite(s) is accessed only by certified lead professionals according to 641—70.3(10A) and 641—70.5(10A). Noncertified individuals will not be allowed access to a worksite. A worksite will remain inaccessible to noncertified individuals until it passes clearance testing.

f. A certified lead abatement contractor or a certified project designer will develop a written occupant protection plan for all lead abatement projects prior to starting lead abatement and will implement the occupant protection plan during the lead abatement project. The occupant protection plan will be unique to each residential dwelling or child-occupied facility. If the occupants will be living at the property where lead abatement is taking place, then the written occupant plan will be given to the occupants prior to the start date of the lead abatement project and will contain at least the following information:

(1) A description of the type and location of the physical barriers that will keep occupants out of the designated worksite(s).

(2) An explanation of how the contractor will ensure that the worksite(s) is not entered by the occupants.

(3) An explanation of how the contractor will ensure that the occupants have access to a kitchen, bathroom, and living area that are not in the worksite(s).

g. Approved methods will be used to conduct lead abatement, and prohibited work practices will not be used to conduct lead abatement.

(1) Signs will be posted and readable. All signs will be posted before lead abatement begins and will remain in place until dust-lead clearance has been passed.

1. To the extent practicable, all signage will be posted in the occupants' primary language.
2. The signs will clearly define the work area.
3. The signs will warn occupants and other persons not involved with the lead abatement to remain outside the work area.
4. The signs will be posted at the entrance(s) to all work areas.

(2) The work area will be effectively contained before the lead abatement begins. To be effective, containment will:

1. Isolate the work area so that no dust or debris leaves the work area while the lead abatement is being performed.

2. Be monitored and maintained so that any plastic or other impermeable materials are not torn or displaced.

3. Be installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(3) For interior lead abatement, containment will include:

1. The removal or covering of all objects from the work area, including but not limited to furniture, rugs, and window coverings. Objects that are not removed from the work area will be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

2. Closing and covering all duct openings in the work area. Ducts will be covered with plastic sheeting or other impermeable material that is taped down.

3. Closing windows and doors in the work area. Doors will be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area will be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4. Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of the surfaces undergoing lead abatement or a sufficient distance to contain the dust, whichever is greater.

5. Ensuring that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving or being removed from the work area.

(4) For exterior lead abatement, containment will include:

1. Closing all doors and windows within 20 feet of the lead abatement. On multistory buildings, all doors and windows within 20 feet of the lead abatement on the same story as the lead abatement will be closed, and all doors and windows on all stories below the lead abatement that are the same horizontal distance from the lead abatement will be closed.

2. Ensuring that doors within the work areas that will be used while the lead abatement is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

3. Covering the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing lead abatement or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground cover. Exterior ground cover will include anchors or weights to ensure that the covering remains effective even during weather conditions such as high wind.

4. Vertical containment. In certain situations, such as where other buildings are in close proximity to the work area, when conditions are windy, or where the work area abuts a property line, the certified lead abatement contractor or certified lead abatement worker will erect a system of vertical containment designed to prevent dust and debris from migrating to adjacent property or contaminating the ground, other buildings, or any object beyond the work area.

(5) The following are prohibited work practices:

1. Open-flame burning or torching of lead-based paint.

2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

3. Uncontained water blasting of lead-based paint.

4. Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.

5. Operating a heat gun at a temperature at or above 1100 degrees Fahrenheit.

(6) All waste generated during lead abatement will be contained to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal. Any chutes used to remove waste from the work area will be covered.

1. At the conclusion of each workday and at the conclusion of the lead abatement, waste that has been collected from lead abatement activities will be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

2. All waste from lead abatement will be contained during transportation so that no dust or debris is released.

(7) The work area will be cleaned so that no dust, debris, or residue remains after lead abatement. Cleaning will include:

1. The collection of all paint chips and debris and, without dispersing the paint chips and debris, the sealing of the materials in heavy-duty bags.

2. The removal of the protective sheeting used as required in this subrule. The sheeting will be misted, then the sheeting will be folded dirty side inward. All sheeting will be taped shut or otherwise sealed inside heavy-duty bags. Sheeting used to separate work areas from non-work areas will remain in place until after the cleaning and removal of other sheeting. All sheeting will be disposed of as waste.

3. For interior lead abatement, all objects and surfaces in the work area and within two feet of the work area will be cleaned from high to low in the following manner:

- Walls will either be vacuumed with a HEPA vacuum or wiped with a wet cloth, beginning at the ceiling and working toward the floor.
- All remaining surfaces including objects and fixtures will be thoroughly vacuumed with a HEPA vacuum. For carpeted floors and rugs, the HEPA vacuum must be equipped with a beater bar.
- All remaining surfaces, except for carpeted or upholstered surfaces, will also be wiped with a damp cloth. Uncarpeted floors will be thoroughly mopped using a method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

h. Soil abatement will be conducted using one of the following methods:

(1) If soil is removed, soil that is a soil-lead hazard will be replaced by soil with a lead concentration as close to the local background as practicable, but less than 400 parts per million. The soil that is removed will not be used as topsoil at another residential property or child-occupied facility.

(2) If soil is not removed, the soil that is a soil-lead hazard will be remediated to meet the definition of "permanently covered soil."

i. If lead-based paint is removed from a surface, the surface will be repainted or refinished prior to postabatement clearance dust sampling. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will visually verify that lead-based paint was removed from a surface prior to repainting or refinishing.

j. If components painted with lead-based paint are removed, the replacement components will be installed prior to postabatement clearance testing.

k. Postabatement clearance procedures will be conducted by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor. If the abatement is conducted in response to an elevated blood lead (EBL) inspection, clearance will be conducted by a certified elevated blood lead (EBL) inspector/risk assessor. Postabatement clearance testing will be performed by persons or entities independent of those performing lead abatement, unless the designated party uses qualified in-house employees to conduct postabatement clearance testing. An in-house employee will not conduct both lead abatement and the postabatement clearance testing for this work. Postabatement clearance testing will be conducted using the following procedures:

(1) Following a lead abatement, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will review the report of the lead inspection, risk assessment, or visual assessment done prior to the lead abatement project and the lead abatement specifications to determine the lead-based paint hazards that were to be abated by the lead abatement project. The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will perform a visual inspection to determine if all lead-based paint hazards that were to be abated have been abated and

to determine if deteriorated paint surfaces or visible amounts of dust, debris, or residue are still present in the rooms where lead abatement was conducted. If lead-based paint hazards that were to be abated by the project or deteriorated paint surfaces or visible amounts of dust, debris, or residue are present in the rooms where lead abatement was conducted, these conditions must be eliminated prior to the continuation of the clearance procedures. However, elimination of deteriorated paint is not required if it has been determined through paint testing or a lead-based paint inspection that the deteriorated paint is not lead-based paint. Following an exterior lead abatement, a visual inspection will be conducted to determine if all lead-based paint hazards that were to be abated have been abated and to determine if any visible dust or debris remains on any horizontal surfaces in the outdoor living areas close to the abated surface. In addition, a visual inspection will be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface that was abated. If lead-based paint hazards that were to be abated by the project are still present, these conditions must be eliminated prior to the continuation of the clearance procedures. If visible dust, debris, or paint chips are present, they must be removed from the site and properly disposed of according to all applicable federal, state, and local standards.

(2) Following the visual inspection and any required postabatement cleanup, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will conduct clearance sampling for lead in dust. Clearance sampling may be conducted by employing single-surface sampling or composite dust sampling. Interior dust-lead testing will be performed for all projects that include window replacement.

(3) Dust samples will be collected a minimum of one hour after the completion of final postabatement cleanup activities.

(4) Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

(5) The following postabatement clearance activities will be conducted as appropriate based upon the extent or manner of lead abatement activities conducted in the residential dwelling or child-occupied facility:

1. After conducting a lead abatement with containment between abated and unabated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells within the containment area. Dust samples will be taken from one interior windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample will be taken from the floor outside of each individual containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, and stairwells will be sampled.

2. After conducting a lead abatement with no containment between abated and unabated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. Dust samples will be taken from one interior windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility, then all rooms, hallways, and stairwells will be sampled.

3. The certified lead abatement contractors and certified lead abatement workers who abate or clean the dwellings will not have any knowledge of which rooms or surfaces will be selected for the dust samples.

(6) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will compare the residual lead level as determined by the laboratory analysis from each single-surface dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs. If the residual lead level in a single-surface dust sample is greater than or equal to the applicable clearance level for a floor, interior windowsill, or window trough, then the failed component in each room with a failed single-surface dust sample and that type of component in

each room that was not tested will be recleaned. Additional clearance samples will be taken from the failed component in each room where it failed and from enough additional rooms that were not previously tested so that four rooms are sampled. If four rooms are not available, then each available room will be retested. The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will evaluate the results of this testing to determine if the recleaned components meet the clearance level. The components will be recleaned and retested until the clearance level is met.

(7) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will compare the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a composite dust sample is greater than or equal to the applicable clearance level divided by half the number of subsamples in the composite sample, then all the components represented by the failed composite dust sample will be recleaned and retested until clearance levels are met.

l. In multifamily housing consisting of at least 20 similarly constructed and maintained residential dwellings, random selection for the purpose of clearance testing may be conducted if the following conditions are met:

(1) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will randomly select the residential dwellings that will be sampled. The certified lead abatement contractors and certified lead abatement workers who abate or clean the dwellings do not know which residential dwellings will be selected for the random selection or which rooms or surfaces will be selected for the dust samples.

(2) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the minimum number of residential dwellings selected for dust sampling. This will provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population are greater than or equal to the appropriate clearance levels.

(3) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will sample the randomly selected residential dwellings and evaluate them for clearance according to the procedures found in 70.6(6)*"i"* through *"k."*

m. No later than three weeks after the property passes clearance, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a report to the lead abatement contractor that contains the items required by 70.6(6)*"n"*(7) through 70.6(6)*"n"*(9).

n. The certified lead abatement contractor or a certified project designer will prepare a lead abatement report containing the following information:

(1) A copy of the original and any revised lead abatement notifications.

(2) Starting and completion dates of the lead abatement project.

(3) The name, address, and telephone number of the property owner(s).

(4) The name, address, and signature of the certified lead abatement contractor and of the certified firm contact for the firm conducting the lead abatement.

(5) Whether or not containment was used and, if containment was used, the locations of the containment.

(6) The occupant protection plan required by 70.6(6)*"f."*

(7) The name, address, and signature of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting clearance sampling, the date on which the clearance testing was conducted, the results of the visual inspection for the presence of lead hazards that were not abated as specified, deteriorated paint and visible dust, debris, residue, or paint chips in the interior rooms and exterior areas where lead abatement was conducted, and the results of all postabatement clearance testing and all soil analyses, if applicable. The results of dust sampling will be reported in micrograms of lead per square foot by location of sample, and the results of soil sampling will be reported in parts per million of lead. The results will not be reported as "not detectable." If random selection was used to select the residential dwellings that were sampled, the report will state that

random selection was used, the number of residential dwellings that were sampled, and how this number was determined.

(8) A statement that the lead abatement was or was not done as specified and that the rooms and exterior areas where lead abatement was conducted did or did not pass the visual clearance and the clearance dust testing. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the clearance testing cannot verify that all lead-based paint hazards have been abated, the report will contain the following statement:

"The purpose of this clearance report is to verify that the lead abatement project was done according to the project specifications. This residential dwelling may still contain hazardous lead-based paint, soil-lead hazards, or dust-lead hazards in the rooms or exterior areas that were not included in the lead abatement project."

(9) The name, address, and telephone number of each recognized laboratory conducting an analysis of clearance samples and soil samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(10) A detailed written description of the lead abatement project, including lead abatement methods used, locations of rooms and components where lead abatement occurred, reasons for selecting particular lead abatement methods, and any suggested monitoring of encapsulants or enclosures.

(11) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

(12) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70.

(13) If applicable, a copy of the written consent or waiver required by 70.6(13).

o. The lead abatement report will be completed no later than 30 days after the lead abatement project passes clearance testing.

p. The certified lead abatement contractor will maintain all reports and plans required in this subrule for a minimum of three years.

q. The certified lead abatement contractor will provide a copy of all reports required by this subrule to the building owner and to the person who contracted for the lead abatement, if different.

70.6(7) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will conduct visual risk assessments according to the following standards. Provided that all of the following standards are met, a certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician may remotely conduct a visual risk assessment using technology that allows for adequate visual evaluation of the painted surfaces. Visual risk assessments will be conducted only by a certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection for risk assessment will be undertaken to locate the existence of deteriorated paint and other potential lead-based paint hazards and to assess the extent and causes of the paint deterioration. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will assess each component in each room, including each exterior side. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will identify the following conditions as potential lead-based paint hazards:

(1) All interior and exterior surfaces with deteriorated paint.

(2) Horizontal hard surfaces, including but not limited to floors and windowsills, that are not smooth or cleanable.

(3) Dust-generating conditions, including but not limited to conditions causing rubbing, binding, or crushing of surfaces known or presumed to be coated with lead-based paint.

(4) Bare soil in the play area and dripline of the home.

c. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will prepare a written report for each residential dwelling or child-occupied facility where a visual risk assessment is conducted. No later than three weeks after completing the visual risk assessment, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will send a copy of the report to the property owner and to the person requesting the visual risk assessment, if different. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will maintain a copy of the report for no less than three years. The report will include, at least:

(1) Date of each visual risk assessment;

(2) Address of building;

(3) Date of construction;

(4) Apartment numbers (if applicable);

(5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(6) Name, signature, and certification number of each certified sampling technician, certified lead inspector/risk assessor, or certified elevated blood lead (EBL) inspector/risk assessor conducting the visual risk assessment;

(7) Name and certification number of the certified firm(s) conducting the visual risk assessment;

(8) A statement that all painted or finished components will be assumed to contain lead-based paint;

(9) Specific locations of painted or finished components identified as likely to contain lead-based paint and likely to be lead-based paint hazards;

(10) Specific locations of bare soil in the play area and the dripline of a home;

(11) If a remote visual risk assessment is conducted, a description of the methodologies used;

(12) Information for the owner and occupants on how to reduce lead hazards in the residential dwelling or child-occupied facility;

(13) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(14) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69, and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(15) The following statement:

"The Iowa Department of Inspections, Appeals, & Licensing may review this report for compliance purposes. It is a violation of law for anyone other than the certified lead professional signing it to alter this report. This report may be supplemented with additional information, so long as any addendum is signed by a sampling technician, lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified according to Iowa Administrative Code 641—70.3(10A) and 70.5(10A)."

70.6(8) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will conduct clearance testing according to the following standards. Clearance testing following lead abatement will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor. Clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35 will be conducted only by certified sampling technicians, certified lead inspector/risk assessors, or certified elevated blood lead (EBL) inspector/risk assessors. If the abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 is conducted in response to an elevated blood lead (EBL) inspection, clearance will be conducted by a certified elevated blood lead (EBL) inspector/risk assessor.

a. Clearance testing following lead abatement will be conducted according to 70.6(6)*"i"* through *"m."*

b. Clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 will be conducted according to the following standards:

(1) A certified sampling technician will perform clearance testing only for a single-family property or for individual residential dwellings and associated common areas in multifamily housing. A certified sampling technician will not perform clearance testing using random selection of residential dwellings or common areas in multifamily housing.

(2) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will review the report of the lead inspection, risk assessment, or visual assessment done prior to interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 and the project specifications to determine the lead-based paint hazards that were to be controlled by the project. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will perform a visual inspection to determine if all lead-based paint hazards that were to be controlled by the project have been controlled and to determine if deteriorated paint surfaces or visible amounts of dust, debris, or residue are still present in the rooms where interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation were conducted pursuant to 24 CFR Part 35. If lead-based paint hazards that were to be controlled by the project, deteriorated paint surfaces or visible amounts of dust, debris, or residue are present in these rooms, these conditions must be eliminated prior to the continuation of the clearance testing. However, elimination of deteriorated paint is not required if it has been determined through a lead-based paint inspection that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by the interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35, the visual inspection will include an assessment to determine if all exterior lead-based paint hazards that were to be controlled by the project have been controlled and to determine if any visible dust or debris remains on any horizontal surfaces in the outdoor living areas close to the affected exterior painted surfaces. In addition, a visual inspection will be conducted to determine if paint chips are present on the dripline or next to the foundation below any exterior painted surface that was treated. If lead-based paint hazards that were to be controlled by the project are still present, these conditions must be eliminated prior to the continuation of the clearance procedures. If visible dust, debris, or paint chips are present, they must be removed from the site and properly disposed of according to all applicable federal, state, and local standards.

(3) Following the visual inspection and any required cleanup, clearance sampling for lead in dust will be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite dust sampling.

(4) Dust samples will be collected a minimum of one hour after the completion of final cleanup activities.

(5) Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

(6) The following clearance activities will be conducted as appropriate based upon the extent or manner of renovation or of interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 in the residential dwelling or child-occupied facility:

1. After conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, with containment between treated and untreated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells within the containment area. Dust samples will be taken from one interior

windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample will be taken from the floor outside of each individual containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, and stairwells will be sampled. Interior dust-lead testing will be performed for all projects that include window replacement.

2. After conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, with no containment between treated and untreated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. Dust samples will be taken from one interior windowsill and window trough (if available), and one dust sample will be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility, then all rooms, hallways, and stairwells will be sampled. Interior dust-lead testing will be performed for all projects that include window replacement.

(7) The contractors conducting the work or cleaning the dwellings will not know which rooms or surfaces will be selected for the dust samples.

(8) The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will compare the residual lead level as determined by the laboratory analysis from each single-surface dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs. If the residual lead level in a single-surface dust sample is greater than or equal to the applicable clearance level for a floor, interior windowsill, or window trough, then the failed component in each room with a failed single-surface dust sample and that type of component in each room that was not tested will be recleaned. Additional clearance samples will be taken from the failed component in each room where it failed and from enough additional rooms that were not previously tested so that four rooms are sampled. If four rooms are not available, then each available room will be retested. The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will evaluate the results of this testing to determine if the recleaned components meet the clearance level. The components will be recleaned and retested until the clearance level is met.

(9) The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will compare the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a composite dust sample is greater than or equal to the applicable clearance level divided by half the number of subsamples in the composite sample, then all the components represented by the failed composite dust sample will be recleaned and retested until clearance levels are met.

c. In multifamily housing consisting of at least 20 similarly constructed and maintained residential dwellings, random selection for the purpose of clearance testing may be conducted if the following conditions are met:

(1) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will randomly select the dwellings that will be sampled. The contractors and the workers who conducted the lead abatement, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation do not know which residential dwellings will be selected for the random selection.

(2) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the minimum number of dwellings selected for dust sampling. This will provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population are greater than or equal to the appropriate clearance levels.

(3) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will sample the randomly selected residential dwellings and evaluate them for clearance according to the procedures found in 70.6(6)*"h"* through *"j."*

(4) The clearance testing is conducted by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

d. A clearance report will be prepared that provides documentation of the lead abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 as well as the clearance testing. When lead abatement is performed, the report will be a lead abatement report in accordance with 70.6(6) *"n."* When renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 is performed, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will prepare a written report for each residential dwelling or child-occupied facility where clearance testing is conducted. No later than 30 days after the property passes clearance, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will send a copy of the report to the property owner and to the person requesting the clearance testing, if different. The clearance report will include the following information:

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected.

(2) The following information regarding the clearance testing:

1. The date(s) of the clearance testing.

2. The name, address, and signature of each certified lead professional performing the clearance examination, including the certification number.

3. The name and certification number of the certified firm(s) conducting the clearance testing.

4. Whether or not containment was used and, if containment was used, the locations of the containment.

5. If random selection was used to select the residential dwellings that were sampled, the report will state that random selection was used, the number of residential dwellings that were sampled, and how this number was determined.

6. The results of the visual inspection for the presence of deteriorated paint and visible dust, debris, residue, or paint chips in the rooms where renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation was conducted pursuant to 24 CFR Part 35.

7. All of the results of the analysis of dust samples, in micrograms per square foot, by location of sample. The results will not be reported as "not detectable."

8. A statement that the renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 was or was not done as specified and that the rooms and exterior areas where these activities were conducted did or did not pass the visual clearance and the clearance dust testing. If the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician conducting the clearance testing cannot verify that all lead-based paint hazards have been controlled, the report will contain the following statement:

"The purpose of this clearance report is to verify that this lead hazard control project was done according to the project specifications. This residential dwelling may still contain hazardous lead-based paint, soil-lead hazards, or dust-lead hazards in the rooms or exterior areas that were not included in the lead hazard control project."

9. The name, address, and telephone number of each recognized laboratory conducting an analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) The following information on the renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 for which clearance testing was performed:

1. The start and completion dates of the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation.

2. The name and address of each firm or organization conducting the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation and the name of each supervisor assigned.

3. A detailed written description of the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation, including the methods used, locations of exterior surfaces, interior rooms, common areas, and components where the hazard reduction activity occurred.

4. If interim control of soil hazards was conducted, a detailed description of the location(s) of the interim controls and the method(s) used.

5. Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

6. Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70.

7. The report will contain the statement set forth in 70.6(7)*"c"*(15).

e. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor or a certified sampling technician will maintain a copy of the clearance testing information included in the lead abatement report specified in 70.6(6)*"m"* for no fewer than three years. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will maintain a copy of the clearance testing report specified in 70.6(8)*"d"* for no fewer than three years.

f. Clearance testing will be performed by persons or entities independent of those performing lead abatement, renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation, unless the designated party uses qualified in-house employees to conduct clearance testing. An in-house employee will not conduct both lead abatement, renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation and the clearance examination for this work.

70.6(9) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct paint testing pursuant to 24 CFR Part 35 according to the following standards. Paint testing pursuant to 24 CFR Part 35 will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. When conducting paint testing in a residential dwelling or child-occupied facility, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint on each deteriorated paint surface and on each painted surface that will be disturbed or replaced. On windows, the window frame, interior windowsill, window sash, and window trough will each be tested.

(2) Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

4. If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

b. If lead-based paint is identified through paint testing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

c. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where paint testing is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

(1) A statement that the inspection was conducted to determine whether lead-based paint is present on deteriorated paint surfaces and on painted surfaces that will be disturbed or replaced;

(2) Date of the testing;

(3) Address of building;

(4) Date of construction;

(5) Apartment numbers (if applicable);

(6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(7) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the paint testing;

(8) Name and certification number of the certified firm(s) conducting the paint testing;

(9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) analyzer;

(11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

(13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(18) The report will contain the statement set forth in 70.6(1)*"a"*(7)"19."

70.6(10) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct reevaluations according to the following standards. Reevaluations will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. All available information regarding lead-based paint for the property being reevaluated will be reviewed, including but not limited to reports of any lead-based paint activities conducted in a residential dwelling, multifamily dwelling, or child-occupied facility.

b. A visual inspection of the property will be undertaken to locate the existence of deteriorated paint; bare soil; recommended lead abatement, interim controls, or standard treatments that were not implemented; and failed interim controls, standard treatments, encapsulation, or enclosure.

c. Deteriorated paint for which the lead content is unknown will be tested for the presence of lead.

d. Soil samples will be collected and analyzed from bare soil for which the lead content is unknown. Soil samples will be collected using the documented methodologies specified in guidance documents issued by the department and will be analyzed by a recognized laboratory to determine the level of lead.

e. If any lead-based paint hazards, recommended lead abatement, interim controls, or standard treatments that were not implemented, or failed interim controls, standard treatments, encapsulation, or enclosure is identified, then the reevaluation is failed. These conditions will be controlled through lead abatement or interim controls before the reevaluation can continue. Clearance testing will be conducted following control of the conditions through lead abatement or interim controls.

f. If there are no lead-based paint hazards present and all of the recommended lead abatement or interim controls were implemented and have not failed, then single-surface or composite dust samples will be collected. The reevaluation is passed if all of the dust samples taken are below the clearance level.

g. In residential dwellings, single-surface or composite dust samples will be collected from floors and interior windowsills in at least four rooms, hallways, or stairwells where at least one child under the age of six years is most likely to come in contact with dust.

h. In multifamily dwellings, single-surface or composite dust samples will also be collected from common areas where at least one child under the age of six years is likely to come in contact with dust.

i. In child-occupied facilities, single-surface or composite dust samples will be collected from the floor and interior windowsill in at least four rooms, hallways, or stairwells utilized by one or more children under the age of six years and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust.

j. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

k. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If tested by laboratory analysis, the paint will be sampled using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies: paragraphs 70.6(9)*"a"*(2)"1" through "6" are restated as if fully set forth herein.

l. When conducting reevaluation in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily

housing has fewer than 5 similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly. Targeted selection criteria are as follows:

1. The residential dwelling has been cited with a housing or building code violation within the past year.
2. The property owner believes that the residential dwelling is in poor condition.
3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.
4. The residential dwelling serves as a child-occupied facility.
5. The residential dwelling has been prepared for reoccupancy within the past three months.

(3) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

(4) The following standards will be used to determine the extent of lead-based paint hazards throughout multifamily housing that is sampled by random selection, targeted selection, or worst case selection:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust-lead levels for carpeted floors, uncarpeted floors, interior windowsills, and window troughs. If the arithmetic mean is greater than or equal to the level defined as a dust-lead hazard for the component, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust-lead hazard has been identified on the component throughout the multifamily housing. If the arithmetic mean is less than the level defined as a dust-lead hazard for the component, but some of the individual components have dust-lead levels that are greater than or equal to the level defined as a dust-lead hazard, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust-lead hazard has been identified on the individual components and on all other similar components throughout the multifamily housing.
2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined not to be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings.

m. If reevaluation is conducted, the first reevaluation will be conducted no later than two years from completion of lead abatement, interim controls, or standard treatments. Subsequent reevaluation will be conducted at intervals of two years, plus or minus 60 days. To be exempt from additional reevaluation, a residential dwelling or child-occupied facility will have at least two consecutive passing reevaluations conducted at such two-year intervals. If, however, a reevaluation fails, at least two more consecutive reevaluations conducted at such two-year intervals will be conducted.

n. A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a

reevaluation is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the reevaluation, if different. A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of the report for no less than three years. The report will include, at least:

(1) Date of each reevaluation;

(2) Address of building;

(3) Date of construction;

(4) Apartment numbers (if applicable);

(5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the reevaluation;

(7) Name and certification number of the certified firm(s) conducting the reevaluation;

(8) All of the information gathered for the review as outlined in 70.6(10)*"a"*;

(9) Results of the visual inspection including details of any newly identified lead-based paint hazards, the status of past lead hazard control measures, and repair options for any lead-based paint hazards identified during the reevaluation;

(10) An indication of whether or not the property passed or failed the reevaluation;

(11) An indication of when the next reevaluation, if any, should occur;

(12) The results of any environmental samples taken, including all XRF readings, all laboratory analyses and clearance testing results, if necessary;

(13) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b));

(14) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(15) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(16) The report will contain the statement set forth in 70.6(7)*"c"*(15).

70.6(11) All renovations performed in target housing and child-occupied facilities, except for emergency renovations and minor repair and maintenance activities, will be performed according to the work practice standards in 70.6(11). Renovation activities conducted in housing or on surfaces determined to be free of lead-based paint by a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will be exempt from all work practice standards except recordkeeping. All renovations will be performed by a certified firm under the supervision of a certified lead abatement contractor or a certified lead abatement worker or will be performed by a certified lead-safe renovator in accordance with the requirements below.

a. A firm will assign at least one certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator to each individual renovation project. The certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator assigned to each individual renovation project will ensure the following:

(1) A certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator will be on site during all worksite preparation and during the cleanup of work areas. At all other times when renovation is being conducted, a certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator will be on site or available by telephone or answering service and be able to be present at the worksite in no more than two hours.

(2) Signs are posted and readable. All signs will be posted before the renovation begins and will remain in place until the postrenovation cleaning verification has been completed.

1. To the extent practicable, all signage will be posted in the occupants' primary language.

2. The signs will clearly define the work area.

3. The signs will warn occupants and other persons not involved with the renovation activity to remain outside the work area.

4. The signs will be posted at the entrance(s) to all work areas.

(3) The work area will be effectively contained before the renovation is begun. To be effective, containment will:

1. Isolate the work area so that no dust or debris leaves the work area while the renovation is being performed.

2. Be monitored and maintained so that any plastic or other impermeable materials are not torn or displaced.

3. Be installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(4) For interior renovations, containment will include:

1. The removal or covering of all objects from the work area. Objects that are not removed from the work area will be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

2. Closing and covering all duct openings in the work area. Ducts will be covered with plastic sheeting or other impermeable material that is taped down.

3. Closing windows and doors in the work area. Doors will be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area will be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4. Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of the surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater.

5. Ensuring that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving or being removed from the work area.

(5) For exterior renovations, containment will include:

1. Closing all doors and windows within 20 feet of the renovation. On multistory buildings, all doors and windows within 20 feet of the renovation on the same story as the renovation will be closed, and all doors and windows on all stories below the renovation that are the same horizontal distance from the renovation will be closed.

2. Ensuring that doors within the work areas that will be used while the renovation is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

3. Covering the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground cover. Exterior ground cover will include anchors or weights to ensure the covering remains effective even during weather conditions such as high wind.

4. Vertical containment. In certain situations, such as where other buildings are in close proximity to the work area, when conditions are windy, or where the work area abuts a property line, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will erect a system of vertical containment designed to prevent dust and debris from migrating to adjacent property or contaminating the ground, other buildings, or any object beyond the work area.

(6) Prohibited practices are not used during the renovation. Prohibited practices include:

1. Open-flame burning or torching of paint.

2. Machine sanding or grinding or abrasive blasting or sandblasting of paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

3. Uncontained water blasting of paint.

4. Dry scraping or dry sanding of paint except in conjunction with the use of a heat gun or around electrical outlets.

5. Operating a heat gun at a temperature at or above 1100 degrees Fahrenheit.

(7) All workers who are not certified lead abatement contractors, certified lead abatement workers, or certified lead-safe renovators must have on-the-job training as required by 70.6(11)*"d."* However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR 35.1340.

(8) If desired, perform all testing with recognized test kits in accordance with 70.6(11)*"e."*

(9) Perform the postrenovation cleaning verification as outlined in 70.6(11)*"b."*

(10) All waste generated during renovation activities is contained to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal. Any chutes used to remove waste from the work area will be covered.

1. At the conclusion of each workday and at the conclusion of the renovation, waste that has been collected from renovation activities will be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

2. All waste from renovation activities will be contained during transportation so that no dust or debris is released.

(11) The work area will be cleaned so that no dust, debris, or residue remains after the renovation. Cleaning will include:

1. The collection of all paint chips and debris and, without dispersing the paint chips and debris, the sealing of the materials in heavy-duty bags.

2. The removal of the protective sheeting used as required in this subrule. The sheeting will be misted, then the sheeting will be folded dirty side inward. All sheeting will be taped shut or otherwise sealed inside heavy-duty bags. Sheeting used to separate work areas from non-work areas will remain in place until after the cleaning and removal of other sheeting. All sheeting will be disposed of as waste.

3. For interior renovations, all objects and surfaces in the work area and within two feet of the work area will be cleaned from high to low in the following manner:

- Walls will either be vacuumed with a HEPA vacuum or wiped with a wet cloth, beginning at the ceiling and working toward the floor.
- All remaining surfaces including objects and fixtures will be thoroughly vacuumed with a HEPA vacuum. For carpeted floors and rugs, the HEPA vacuum must be equipped with a beater bar.
- All remaining surfaces, except for carpeted or upholstered surfaces, will also be wiped with a damp cloth. Uncarpeted floors will be thoroughly mopped using a method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

b. Postrenovation cleaning verification. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will use the following procedure for conducting postrenovation cleaning verification. In lieu of postrenovation cleaning verification, clearance testing as outlined in 70.6(8) can be performed. If the work is done in response to an elevated blood lead (EBL) inspection, clearance testing will be performed by a certified elevated blood lead (EBL) inspector/risk assessor in lieu of postrenovation cleaning verification. Warning signs may be removed after all of the work areas in a renovation project have been adequately cleaned and verified or passed clearance testing.

(1) For interior renovations, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will perform a visual inspection to determine whether dust, debris, or residue is still present. If dust, debris, or residue is still present, these conditions will be removed by recleaning, and another visual inspection will be performed. Following a successful visual inspection, a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will:

1. Verify that each windowsill and window trough in the work area has been adequately cleaned, using the following procedure:

- Wipe the windowsill and window trough with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

● If the cloth does not match and is darker than the cleaning verification card, reclean the windowsill or window trough as directed in 70.6(11)*"a"*(11). Then wipe the windowsill or window trough again, using a new cloth or the same cloth folded in such a way that an unused surface is exposed. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

● If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

● After waiting for the windowsill or window trough to dry, wipe the windowsill or window trough with a dry disposable cleaning cloth. After this wipe, that windowsill or window trough has been adequately cleaned.

2. Verify that uncarpeted floors and countertops in the work area have been adequately cleaned, using the following procedure. If the surface within the work area is greater than 40 square feet, the surface within the work area will be divided into roughly equal sections that are each less than 40 square feet.

● Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors will be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth will remain damp at all times while it is being used to wipe the surface for postrenovation cleaning verification. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches or is lighter than the cleaning verification card, the surface has been adequately cleaned.

● If the cloth does not match and is darker than the cleaning verification card, reclean the surface as in 70.6(11)*"a"*(11). Then wipe the floor or countertop again, using a new cloth. If the cloth matches or is lighter than the cleaning verification card, that surface has been adequately cleaned.

● If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

● After waiting for the surface to dry, wipe each section of the surface that has not yet achieved the postrenovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that surface has been adequately cleaned.

(2) For exterior renovations, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will perform a visual inspection to determine whether dust, debris, or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris, or residue is present, these conditions must be eliminated and another visual inspection will be performed. When the area passes the visual inspection, the exterior has been adequately cleaned.

(3) A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will only use cleaning verification cards that are approved by the U.S. Environmental Protection Agency (EPA) and have not expired.

c. Clearance testing. Postrenovation cleaning verification is not required if the contract between the renovation firm and the person contracting for the renovation or another federal, state, territorial, tribal, or local law or regulation requires the renovation firm to perform clearance testing at the conclusion of a renovation covered by this chapter.

(1) The dust samples will be collected by a certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician. If the work is done in response to an elevated blood lead (EBL) inspection, the dust samples will be collected by a certified elevated blood lead (EBL) inspector/risk assessor.

(2) The firm conducting the renovation is required to reclean the work area until the dust clearance sample results are below the clearance standards in 70.6(8).

d. On-the-job training. The certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator assigned to the renovation project will ensure that each noncertified individual conducting renovation activities has been or is currently being trained on how to safely conduct renovation activities. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR Part 35.

(1) All on-the-job training will be conducted by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator.

(2) Each noncertified individual will be trained by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator who is employed by the same certified firm. On-the-job training does not meet the requirement for work conducted pursuant to 24 CFR Part 35.

(3) On-the-job training will be specific for the type of work the noncertified individual is performing and must include at least the following topics:

1. An overview of the requirements described in this chapter.
2. An overview of the health effects of lead poisoning.
3. Methods to prevent taking lead dust home from the worksite.
4. How and why to properly set up a work area for lead-safe renovations.
5. How and where to properly post signage.
6. Personal protection.
7. How and why to properly set up containment.
8. How and why to minimize dust and debris.
9. Proper cleaning techniques and timelines for cleaning in renovation activities.
10. How to properly handle and control waste generated from renovation activities.
11. An overview of the postrenovation cleaning verification and clearance testing.
12. An overview of the prerenovation notification requirements found in 641—Chapter 69.
13. Prohibited work practices.

e. Recognized test kits. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator may use recognized test kits to determine whether surfaces to be affected by renovation activities are painted with lead-based paint. The result from each individual test performed applies only to the individual surface tested. Surfaces that are determined by proper use of a recognized test kit to be free of lead-based paint are exempt from the requirements of 70.6(11)*"a"* through *"d."* Results obtained from recognized test kits are only valid if the testing was performed according to the manufacturer's directions. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will not discard a valid result from a recognized test kit.

f. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will complete a written report when conducting a renovation. The report will include the results of any testing performed with a recognized test kit, information regarding the work practices used in the renovation and, if applicable, a copy of the clearance testing report. When the final invoice for the renovation is delivered or within 30 days after the renovation activity is complete, whichever is earlier, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to the owner of the building. If the renovation took place within a residential dwelling, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to an adult occupant of the residential dwelling and to the person requesting the renovation, if different from the owner. If the renovation took place within a child-occupied facility, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to an adult representative of the child-occupied facility and to the person requesting the renovation, if different from the owner. If the renovation took place within common areas of multifamily target housing, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will post in areas where it is likely to be seen by the occupants of all of the affected units the report required by this paragraph or instructions on how interested occupants can obtain a copy of this report at no charge. If the renovation took place within a child-occupied facility, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will post in areas where it is likely to be seen by the parents or guardians of children frequenting the child-occupied facility the report required by this paragraph or instructions on how interested parents or guardians of children frequenting the child-occupied facility can obtain a copy of this report at no charge. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will maintain a copy of the report for no less than three years. The report will include, at least:

(1) The date(s) of the renovation.

(2) Address of the building, including apartment numbers, if applicable.

(3) The name, address, and telephone number of the owner(s) of the address(es) where the renovation took place.

(4) The name, address, signature, certification number, and telephone number of the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator who performed the renovation.

(5) The name and certification number of the certified firm performing the renovation.

(6) If testing was performed with a recognized test kit, the location of each test. The location will be specific to the room and component.

(7) The results of testing. The results will be classified as either positive for lead-based paint or negative for lead-based paint.

(8) The name and manufacturer of the recognized test kit(s) used, the expiration date, and the EPA approval number.

(9) The work practices used in the renovation, including the location(s) where each work practice was used. The location will be specific to the room and component.

(10) If applicable, a copy of the clearance report.

(11) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

(12) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation, remodeling and repainting found in 641—Chapter 70.

g. Recordkeeping. Records will be kept for each renovation project that involves target housing or child-occupied facilities. The records for each renovation will include:

(1) The name and certification number of the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator responsible for the renovation.

(2) The name and certification number of the certified firm that performed the renovation.

(3) The address(es) of the property where the renovation activity was performed.

(4) The name, address, and telephone number of the property owner where the renovation activity was performed.

(5) Renovations considered emergency pursuant to 641—70.2(10A) will contain a description of the circumstances explaining why the renovations were immediately required and which work practice standards were not followed as a result.

(6) Any reports or documentation completed by a certified lead professional concerning the renovation project, including documentation from certified lead inspector/risk assessors or certified elevated blood lead (EBL) lead inspector/risk assessors regarding housing, components, or surfaces that have been determined to be free of lead-based paint and clearance reports from clearance testing performed in lieu of postrenovation cleaning verification.

(7) Documentation that each noncertified individual working on the renovation project had, or was receiving, the appropriate on-the-job training outlined in 70.6(11)*"d."* The documentation will include the names of all of the noncertified individuals who worked on the renovation. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR 35.1340.

(8) Documentation that the certified lead-safe renovator followed the work practices for renovation activities outlined in 70.6(11). This will include documentation that the following work practices were followed:

1. Signs were posted at the entrance to the work area.
2. The work area was contained.
3. All objects in the work area were covered or removed.
4. All HVAC ducts in the work area were closed and covered.
5. All windows in the work area were closed, and all windows within 20 feet of exterior work areas were closed.

6. All doors not used to enter the work area were closed and sealed, and all doors within 20 feet of exterior work areas were closed and sealed.

7. All doors used as an entrance to the work area had containment in place to prevent the spread of dust and debris.

8. All floors in the work area were covered for a sufficient distance to contain the dust and debris from the renovation.

9. Adequate ground cover was in place to contain the dust and debris for exterior renovations.

10. Adequate vertical containment was in place to contain the dust and debris for exterior renovations.

11. All waste generated during the renovations was contained throughout the renovation and the transportation to disposal.

(9) Documentation that the renovation work area was cleaned and passed the postrenovation cleaning verification procedures outlined in 70.6(11)*"b,"* including the expiration date of the cleaning verification cards used.

(10) Documentation regarding the use of any recognized test kits outlined in 70.6(11)*"e."* The documentation will include a copy of the written report required by 70.6(11)*"f."*

h. Emergency renovations.

(1) Renovation activities that are deemed to be an emergency are exempt from the certification requirements and all of the work practice standards, except for the cleaning requirements, postrenovation cleaning verification, and the written report required by 70.6(11)*"f."* All postrenovation cleaning will take place under the direction of a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator. The postrenovation cleaning verification after an emergency renovation will be performed by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator.

(2) Emergency renovations that are required as a result of an elevated blood lead (EBL) inspection are initially exempt from the certification requirements. The work practice standards found in 70.6(11)*"a"* will apply. All individuals who perform emergency renovations in response to an elevated blood lead (EBL) inspection are required to obtain certification as a lead-safe renovator, lead abatement contractor, or lead abatement worker within six months from the date the elevated blood lead (EBL) inspection report was issued. Renovations and interim controls performed in response to an elevated blood lead (EBL) inspection are required to pass clearance testing that is performed by a certified elevated blood lead (EBL) inspector/risk assessor.

70.6(12) A person may be certified as a lead inspector/risk assessor, sampling technician, or elevated blood lead (EBL) inspector/risk assessor and as a lead abatement contractor or lead abatement worker. Except as specified by 70.6(6)*"k"* and 70.6(8)*"f,"* a person who is certified both as a lead inspector/risk assessor, sampling technician, or elevated blood lead (EBL) inspector/risk assessor and as a lead abatement contractor or lead abatement worker will not provide both lead inspection or visual risk assessment and lead abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

70.6(13) Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 70.6(1) through 70.6(6) and 70.6(9) will be collected by persons certified as a lead inspector/risk assessor or an elevated blood lead (EBL) inspector/risk assessor. Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 70.6(8) for clearance testing following lead abatement will be collected by persons certified as a lead inspector/risk assessor or an elevated blood lead (EBL) inspector/risk assessor. Any dust or soil samples collected pursuant to the work practice standards contained in 70.6(8) for clearance testing after renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35 will be collected only by certified sampling technicians, certified lead inspector/risk assessors, or certified elevated blood lead (EBL) inspector/risk assessors. Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 641—70.6(10A) will be analyzed by a recognized laboratory.

70.6(14) Composite dust sampling will be conducted only in the situations specified in 70.6(4) through 70.6(6) and 70.6(8). If composite sampling is conducted, it will meet the following requirements:

a. Composite dust samples will consist of at least two subsamples.

b. Every component that is being tested will be included in the sampling.

c. Composite dust samples will not consist of subsamples from more than one type of component.

d. The results of composite dust samples will be evaluated by comparing the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface dust-lead hazard or clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample.

641—70.7(10A) Firms. All firms that perform or offer to perform lead-based paint activities must be certified by the department. Firms will employ only appropriately certified employees to conduct lead-based paint activities, and the firm and its employees will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities. A firm must employ at least one certified individual in order to receive or maintain firm certification.

70.7(1) A firm wishing to be certified will apply to the department electronically in a format specified by the department or may apply using a paper application supplied by the department. The firm will submit:

a. A completed application.

b. Documentation that the firm will employ only appropriately certified lead professionals to perform lead-based paint activities. In addition, the firm will document that the agency and its employees or contractors will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities.

c. The certified firm will maintain all records required by 641—70.6(10A), with the exception of elevated blood lead (EBL) inspection reports, for three years. Certified firms that are also certified as elevated blood lead (EBL) inspection agencies will maintain elevated blood lead (EBL) inspection reports for at least ten years.

70.7(2) Firms must be recertified every three years. To be recertified, the firm will submit the following:

a. A completed application.

b. Documentation that the firm will employ only appropriately certified lead professionals to perform lead-based paint activities. In addition, the firm will document that the firm and its employees or contractors will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities.

641—70.8 Reserved.

641—70.9(10A) Compliance inspections.

70.9(1) The department may enter premises or facilities where violations of the provisions regarding lead-based paint activities may occur for the purpose of conducting compliance inspections.

70.9(2) The department may enter premises or facilities where training programs conduct business.

70.9(3) The department may take samples and review records as part of the lead-based paint activities compliance inspection process.

70.9(4) The department may review all reports involving lead-based paint activities.

70.9(5) The department may issue subpoenas pursuant to Iowa Code chapter 10A for the purposes of determining compliance.

641—70.10(10A) Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties.

70.10(1) When the department finds that the applicant, certified lead professional, or certified firm has committed any of the following acts, the department may deny an application for certification, may suspend or revoke a certification, may prohibit specific work practices, may require a project conducted

by persons or firms that are not certified or a project where prohibited work practices are being used to be halted, may require the cleanup of lead hazards created by the use of prohibited work practices, may impose a civil penalty, may place on probation, may require additional education, may require reexamination of the state certification examination, may issue a warning, or may impose other sanctions allowed by law as may be appropriate.

a. Failure or refusal to comply with any requirements of this chapter.

b. Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by 641—70.3(10A) through 641—70.7(10A).

c. Failure or refusal to permit entry or inspection as described in 70.9(1) through 70.9(3).

d. Obtaining or attempting to obtain certification through fraudulent representation.

e. Failure to obtain certification from the department and performing work requiring certification.

f. Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.

g. Conducting any part of a lead-based paint activity that requires certification without being certified or with a certification that has lapsed.

h. Obtained documentation of training through fraudulent means.

i. Gained admission to an accredited training program through misrepresentation of admission requirements.

j. Obtained certification through misrepresentation of certification requirements or related documents pertaining to education, training, professional registration, or experience.

k. Performed work requiring certification at a job site without having proof of current certification.

l. Permitted the duplication or use of the individual's or firm's own certificate by another.

m. Failed to follow the standards of conduct required by 641—70.6(10A).

n. Failed to comply with federal, state, or local lead-based paint statutes and regulations, including the requirements of this chapter.

o. Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of lead professional activities or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

p. Used untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by a lead professional making information or intention known to the public that is false, deceptive, misleading, or promoted through fraud or misrepresentation.

q. Falsified reports and records required by this chapter.

r. Accepted any fee by fraud or misrepresentation.

s. Negligence by the firm or individual in the practice of lead professional activities. This includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice, or conditions that impair the ability of the firm or individual to safely and skillfully practice the profession.

t. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court will not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.

u. Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.

v. Representation by a firm or individual that the firm or individual is certified when the certification has been suspended or revoked or has not been renewed.

w. Failed to respond within 20 days of receipt of communication from the department that was sent by registered or certified mail.

x. Engaged in any conduct that subverts or attempts to subvert a department investigation.

y. Failed to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

z. Failed to pay costs assessed in any disciplinary action.

aa. Been convicted of a felony or misdemeanor related to lead professional activities or the conviction of any felony or misdemeanor that would affect the ability of the firm or individual to perform lead professional activities. A copy of the record of conviction or plea of guilty is conclusive evidence.

ab. Unethical conduct. This includes, but is not limited to, the following:

(1) Verbally or physically abusing a client or coworker.

(2) Improper sexual conduct with or making suggestive, lewd, lascivious, or improper remarks or advances to a client or coworker.

(3) Engaging in a professional conflict of interest.

(4) Mental or physical inability reasonably related to and adversely affecting the ability of the firm or individual to practice in a safe and competent manner.

(5) Being adjudged mentally incompetent by a court of competent jurisdiction.

(6) Habitual intoxication or addiction to drugs.

1. The inability of a lead professional to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

2. The excessive use of drugs that may impair a lead professional's ability to practice with reasonable skill or safety.

3. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

(7) Registration on a state sex offender registry.

70.10(2) The department may deny, suspend, revoke, or modify the approval for a course, or may place on probation, or impose other sanctions allowed by law as may be appropriate, or may impose a civil penalty or impose other sanctions allowed by law as may be appropriate when it finds that the training program, training manager, or other person with supervisory authority over the course has committed any of the following acts:

a. Misrepresented the contents of a training course to the department or to the student population.

b. Failed to submit required information or notifications in a timely manner.

c. Failed to maintain required records.

d. Falsified approval records, instructor qualifications, or other information or documentation related to course approval.

e. Failed to comply with the training standards and requirements in 641—70.4(10A).

f. Made false or misleading statements to the department in its application for approval or reapproval that the department relied upon in approving the application.

g. Failed to comply with federal, state, or local lead-based paint statutes and regulations, including the requirements of this chapter.

h. Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of conducting a training program or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

i. Used untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by a training program making information or intention known to the public that is false, deceptive, misleading, or promoted through fraud or misrepresentation.

j. Falsified reports and records required by this chapter.

k. Accepted any fee by fraud or misrepresentation.

l. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court will not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.

m. Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.

n. Failed to respond within 20 days of receipt of communication from the department that was sent by registered or certified mail.

o. Engaged in any conduct that subverts or attempts to subvert a department investigation.

p. Failed to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

q. Failed to pay costs assessed in any disciplinary action.

70.10(3) Reinstatement.

a. Any individual, training program, or firm that has been revoked, denied, or suspended may apply to the department in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the certification was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

70.10(4) Complaints and other requests for action under this rule. Complaints regarding a certified lead professional, a certified elevated blood lead (EBL) inspection agency, a certified firm, or an approved course may be submitted to the department. The complainant should provide:

a. The name of the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm and the specific details of the action(s) by the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm that did not comply with the rules; or

b. The name of the lead professional or firm that conducted lead professional activities without the appropriate certification or approval as required by the rules; or

c. The name of the sponsoring person or organization of an approved course and the specific way(s) that an approved course did not comply with the rules; or

d. The name of the sponsoring person or organization that provided a course without the approval required by these rules.

70.10(5) Civil penalties.

a. Before instituting any proceeding to impose a civil penalty under Iowa Code section 10A.902, the department will serve a written notice of violation upon the person charged. The notice of violation will specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged and will identify specifically the particular provision or provisions of the law, rule, regulation, certification, approval, or cease and desist order involved in the alleged violation and will state the amount of each proposed penalty. The notice of violation will also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation will advise the person charged that upon failure to pay a civil penalty subsequently determined by the department, if any, unless compromised, remitted, or mitigated, the fee may be collected by civil action.

b. Within 20 days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed or answer the notice of violation or request a contested case hearing. The answer to the notice of violation shall state any facts, explanations, and arguments denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty.

c. If the person charged with violation fails to answer within the time specified in 70.10(5)*"b,"* an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in 70.10(5)*"a."* If the person charged with violation files an answer to the notice of violation, the department, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within 20 days of the date of the order or other time specified in the order, request a contested case hearing. If the person charged

with violation timely requests a contested case hearing, it will be initiated and held in accordance with 481—Chapters 9 and 10.

70.10(6) Public notification.

a. The public will be notified of the suspension, revocation, modification, or reinstatement of course approval through appropriate mechanisms.

b. The department will maintain a list of courses for which the approval has been suspended, revoked, modified, or reinstated.

c. The public will be notified of the suspension or revocation of the certification of a lead professional or firm.

d. The department will maintain a list of lead professionals and firms for which certification has been suspended or revoked.

641—70.11(10A) Waivers. Rules in this chapter are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

641—70.12(10A) References to federal law. Unless otherwise specified, all references in this chapter to the United States Code or to the Code of Federal Regulations are to those provisions in effect on July 1, 2024.

These rules are intended to implement Iowa Code sections 135.105A, 272C.4 and 272C.12.

ARC 8656C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to general rules for migratory labor camps and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 81, "General Rules for Migratory Labor Camps," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 138.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 138 and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 81. This rulemaking implements Iowa Code section 138.18 in accordance with the goals and directives of Executive Order 10. Iowa Code section 138.18 requires that the Department adopt rules that are necessary to carry out the purposes and provisions of Iowa Code chapter 138 subject to the requirements of Iowa Code chapter 17A.

The proposed rulemaking implements the aforementioned Iowa Code sections by setting forth standards for shelters in migratory labor camps. The rules set forth requirements for water supply and waste disposal. The rules address bathing facilities and dining facilities, if any. The rules ensure that the camps comply with safety standards in case of fire. The rules further provide for inspection of the camps and registration of occupants.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9 to 9:30 a.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1 to 1:30 p.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
GENERAL RULES FOR MIGRATORY LABOR CAMPS

641—81.1(138) Shelters.

81.1(1) *Heating season.* The season requiring artificial heating as provided in Iowa Code section 138.13 is designated as the period between September 15 and June 1.

81.1(2) *Minimum floor space requirements.* The following floor space requirements shall be provided:

a. At least 50 square feet per occupant for sleeping purposes only in family units and dormitory accommodations.

b. At least 40 square feet per occupant for sleeping purposes only in accommodations using double bunk beds.

81.1(3) *Inspection.* The migrant shelter facilities shall be made available for inspection by the department at any reasonable time.

81.1(4) *Register.* A register of all occupants shall be maintained and provided to the department upon request.

81.1(5) *Separate rooms.* Housing used for families with one or more children six years of age or older shall have a separate room or partition made of rigid materials and installed to provide a reasonably private sleeping area for the husband and wife.

81.1(6) *Storage.* Arrangements for hanging clothing and storing personal effects for each person or family will be provided.

641—81.2(138) Water supply.

81.2(1) *General.* The following standards apply to the water supply:

a. The water supply will be of a safe bacterial and chemical quality.

b. Where a public water supply is available, such water will be used in the camp. If a private water source under pressure is provided, the water system will be capable of delivering at least 35 gallons per person per day to the camp site.

c. Cistern supplies consisting of roof or other surface runoff water will not be used for drinking or culinary purposes.

d. The adequacy of a well as a source of water for drinking or culinary purposes will be determined by inspection and bacteriological examination. Defects found by inspection or contaminated samples will be sufficient grounds for requiring repair, chlorination or condemnation of the well.

e. Water containing 45 or more parts per million of nitrates will not be used for drinking or preparation of formula for infants under one year of age. When the supply contains nitrates in the quantity above, water for infant feeding will be obtained from another source that has been tested and found to be bacterially satisfactory and contains less than 45 parts per million of nitrates. A water supply containing 45 or more parts per million of nitrates will be placarded or posted stating the water will not be used for infant feeding.

f. Hand-pump bases will be of the solid one-piece type bolted, including suitable gaskets, secured to the well casing by thread or weld connection. Handpumps secured to the platform by bolts cast in the concrete will be provided with a rubber or neoprene gasket between the pump base and the platform to ensure a watertight joint.

g. The pump head will be of a type designed to prevent external water or other contaminating material from entering the water chamber.

h. The pump spout will be of the closed, downward-directed type.

81.2(2) *Existing pump pits.* Existing pump pits may be approved if the construction conforms to the following minimum standards:

a. Walls, floor and top of pit are of watertight concrete or masonry construction or equivalent. The well casing extends at least 6 inches above the pit floor.

b. A positive seal is provided for the annular opening between the casing wall and the drop pipe.

c. A positive drain is provided by either a watertight sump and automatic sump pump discharging with at least a 6-inch free fall above the ground surface or an independent drain line discharging to the ground surface above any possible flood level. Pit drains discharging to any other drain or sewer are prohibited.

81.2(3) *Water supply systems.* The water supply system shall be installed so as to prevent backflow of contaminated water from appliances, fixtures, drains and sewers and have no cross-connections with any nonpotable supply or any other water supply that does not comply with these rules.

81.2(4) *Water tanks.* All water to be hauled for a camp will be obtained from an approved source. All equipment used for hauling or storage of potable water will be thoroughly cleaned and disinfected with a solution containing at least 200 parts per million of chlorine immediately before use. No equipment, tanks or reservoirs used for hauling or storing potable water can be used for any other purpose.

641—81.3(138) Waste disposal.

81.3(1) *Solid waste disposal.* Solid waste shall be disposed of in a sanitary disposal project pursuant to Iowa Code chapter 455B, or, if disposed of on the premises, buried so as to create no health hazard or nuisance.

81.3(2) *Liquid waste.* Liquid waste shall be disposed of as follows:

a. Existing wastewater disposal systems located and constructed so as not to create a nuisance or condition of pollution.

b. Water-carriage toilets discharged to a septic tank and solid absorption system or other type of disposal system located, designed and constructed in accordance with the specifications set forth in 567—Chapter 69.

c. A leaching pit or other type disposal system provided to receive the wastes from sinks, laundries, showers and tubs when no septic tank and absorption system is available located and constructed in accordance with the specifications set forth in 567—Chapter 69.

641—81.4(138) Bathing facilities.

81.4(1) Showers shall be supplied with hot and cold water under pressure and be sufficiently enclosed to provide privacy for the user. An adjacent, enclosed dry area will be provided for dressing. No duckboards, mats or other such accessories will be permitted.

81.4(2) Automatic water-heating equipment, or storage tanks with hand-fired heating coils, shall be equipped with combination pressure and temperature relief valves or separate pressure and temperature relief valves, located in the top one-eighth or not more than three inches above the top of the tank served. Pressure relief valves may be located adjacent to the tank. Gas-fired or other combustion-type water heaters shall be vented to the outside atmosphere.

641—81.5(138) Central dining facilities. When central dining facilities are provided by a concessionaire, operator or the manager of a camp, the size of the kitchen and dining hall will be commensurate with the capacity of the housing and separate from the sleeping quarters.

641—81.6(138) Safety and fire.

81.6(1) *Fire exits.* Fire exits shall consist of:

a. Shelters of one-story construction housing less than ten persons: two means of escape, one of which may be a readily accessible window with an openable space of at least 24 by 24 inches.

b. Sleeping quarters designed for ten or more persons, central dining facilities and common assembly rooms: at least two doors remotely separated so as to provide alternate means of escape.

c. Floors, above the first floor, used for sleeping quarters or common assembly rooms: a stairway and a permanent affixed exterior ladder or a second stairway.

81.6(2) *Shelter spacing.* There shall be at least ten feet of space in all directions between shelters.

These rules are intended to implement Iowa Code section 138.18.

ARC 8569C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to child death review team and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 90, "Iowa Child Death Review Team," and to adopt a new Chapter 90, "State Mortality Review Committee," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 135.43, 135.112 and 144.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

2024 Iowa Acts, Senate File 2385, created the State Mortality Review Committee. The purpose of the State Mortality Review Committee is to aid in the reduction of preventable deaths by promoting communication, discussion, cooperation, and the exchange of ideas and information, and by making recommendations for changes in policy and practice to improve community interventions, and to determine whether the Department and others involved responded appropriately. This chapter is replacing the chapters previously titled "Iowa Child Death Review Team," "Iowa Domestic Abuse Death Review Team," and "Maternal Mortality Review Committee."

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90
STATE MORTALITY REVIEW COMMITTEE

641—90.1(135) Definitions.

"Child abuse assessment" means an assessment performed in accordance with Iowa Code section 232.71B.

"Child fatality" means the death of a child under the age of 18.

"Committee" means the state mortality review committee.

"Maternal death" means any death occurring while a woman is pregnant or within one year of the end of the pregnancy from any cause. This includes deaths resulting from abortions, ectopic pregnancies and all deaths during pregnancy, childbirth, puerperium or deaths from complications of childbirth.

"Multidisciplinary team" means the group of individuals as defined in Iowa Code section 235A.13.

641—90.2(135) Agency. The state mortality review committee is established in the department. The department will provide staffing and administrative support to the committee.

641—90.3(135) Membership. Committee membership will be determined pursuant to Iowa Code section 135.43(2).

641—90.4(135) Officers. The committee will elect a chairperson, a vice chairperson, and other officers as deemed necessary by the committee. Officers will be elected at the first meeting of each fiscal year. Vacancy in the office of the chairperson will be filled by elevation of the vice chairperson. Vacancy in the office of the vice chairperson will be filled by election at the next meeting after the vacancy occurs. The chairperson will preside at all meetings of the committee. If the chairperson is absent or unable to act, the vice chairperson will perform the duties of the chairperson. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson. The vice chairperson will also perform such other duties as may be assigned by the chairperson.

641—90.5(135) Subcommittees.

90.5(1) The committee may establish temporary or permanent subcommittees pursuant to Iowa Code sections 135.40, 135.43 and 135.110.

90.5(2) The committee shall establish appointment provisions, membership terms, operating guidelines, and other operational requirements for any subcommittees established.

641—90.6(135) Liaisons. Liaisons will be designated pursuant to Iowa Code section 135.43(5).

641—90.7(135) Meetings. The committee will meet pursuant to Iowa Code section 135.110(3).

641—90.8(135) Duties and responsibilities.

90.8(1) The committee will be responsible for the duties established in Iowa Code sections 135.43(3) and 135.110(1).

90.8(2) The committee will conduct comprehensive, multidisciplinary reviews of maternal deaths or other deaths in Iowa to residents to identify factors associated with the deaths and make recommendations for system changes to prevent future deaths.

The department annually shall systematically ascertain maternal deaths using birth, fetal death and death vital records.

641—90.9(135) Disclosure of information.

90.9(1) The committee and subcommittees shall have access to patient records and other confidential information. In preparation for review of an individual death by the committee or subcommittee, the chairperson of the committee or the chairperson's designee is authorized to gather all information pertinent to the review. A person in possession or control of medical, investigative or other information pertaining to a child death, child abuse, domestic abuse, maternal death, or other death review with an established subcommittee shall allow the inspection and reproduction of the information by the department, upon the request of the department, to be used only in the administration and for the duties of the committee. A person does not incur legal liability by reason of releasing information to the department as mandated under and in compliance with this rule.

The committee and subcommittees will maintain the confidentiality of all information and records used in the review, including disclosure of information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

90.9(2) In the event of a maternal death, the certifying physician shall indicate that circumstance on the certificate of death.

90.9(3) Any person, hospital, sanatorium, or other organization shall make available to the department for inspection records, reports, statements, interviews or other data necessary to fulfill the duties of the committee or subcommittees.

641—90.10(135) Immunity and liability. Committee and subcommittee members are immune from any liability, civil or criminal, as established in Iowa Code section 135.43(8). A person who releases or discloses confidential data, records, or any other type of information in violation of this chapter is guilty of a serious misdemeanor.

These rules are intended to implement 2024 Iowa Acts, Senate File 2385, and Iowa Code sections 135.40, 135.43, 135.108, 135.110, and 135.111.

ARC 8566C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to domestic abuse death review team and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 91, "Iowa Domestic Abuse Death Review Team," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.112.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.108 and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

The purpose of the Domestic Abuse Death Review Team is to aid in the reduction of the incidence of domestic abuse deaths by accurately identifying the cause and manner of deaths occurring from domestic violence and by making recommendations for changes in policy and practice to improve community interventions for preventing domestic abuse deaths.

The State Mortality Review Committee (2024 Iowa Acts, Senate File 2385) prompted the centralization of death review teams. Chapter 91 is proposed to be rescinded and centralized with 641—Chapters 5, 90 and 92. Procurement and review will continue to occur as part of this centralized chapter and as a subcommittee of the State Mortality Review Committee.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision because this chapter is proposed to be rescinded.

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 January 17, 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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 91**.

ARC 8567C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to Iowa fatality review committee and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 92, "Iowa Fatality Review Committee," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.43.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

2024 Iowa Acts, Senate File 2385, created the State Mortality Review Committee. This prompted the centralization of death review teams. Chapter 92 is proposed to be rescinded and centralized with 641—Chapters 5, 90 and 91.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision because this chapter is proposed to be rescinded.

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 January 17, 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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 92**.

ARC 8553C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to child protection center grant program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 94, "Child Protection Center Grant Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 135.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.118.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. Currently, this chapter describes the goals, review process, eligibility criteria and appeals process for the Child Protection Center Grant Program. However, this chapter is duplicative of the request for proposal process and appeals procedures set forth in 441—Chapter 7. Authority is not explicit in the Iowa Code to allow for rulemaking, and chapter rescission is appropriate.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision because this chapter is proposed to be rescinded.

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 January 17, 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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 94**.

ARC 8563C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to vital records modifications and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to amend Chapter 99, "Vital Records Modifications," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 144.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 144.26, 144.38, and 144.41 and 2024 Iowa Acts, Senate File 2430.

Purpose and Summary

Pursuant to 2024 Iowa Acts, Senate File 2430, this proposed amendment provides guidance for the correction, substitution, and amendment of medical certification of cause of death. This rule establishes processes for correction or substitution requests before and after 12 months from date of death and includes a requirement that supporting evidence be provided with the request.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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 rule 641—99.10(144) as follows:

641—99.10(144) Correction or ~~amendment to~~ substitution of medical certification of cause of death.

99.10(1) Corrections or ~~amendments to~~ substitutions of the medical certification of cause of death shall be requested solely by the medical certifier listed on the certificate of death or fetal death.

99.10(2) The medical certifier may correct the medical certification of cause of death within ~~90 days following~~ 12 months of the date of death or fetal death. The request shall be submitted to the state registrar with supporting evidence on official letterhead signed and dated by the medical certifier listed on the certificate of death or fetal death.

99.10(3) ~~Any amendment after 90 days following~~ A correction to the medical certification of the cause of death and substitution of a death certificate requested solely by the medical certifier after 12 months of the date of death or fetal death shall be made by order of a court of competent jurisdiction and considered an amendment. However, the medical certification of cause of death may be amended at any time upon submission of a report of autopsy or toxicological findings or additional findings by the county or state medical examiner.

99.10(4) No fee shall be charged for correction, substitution or amendment made pursuant to this rule.

ARC 8460C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to public health response teams and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 113, "Public Health Response Teams," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.143.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.143.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The primary purpose of public health response teams is to respond to Iowa incidents and to provide support for Iowa medical and public health personnel, hospitals, and resources. A public health response team may also be requested to respond to an out-of-state disaster or emergency pursuant to the emergency management assistance compact in Iowa Code section 29C.21.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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 113 and adopt the following **new** chapter in lieu thereof:

CHAPTER 113
PUBLIC HEALTH RESPONSE TEAMS

641—113.1(135) Definitions. For purposes of this chapter, the following definitions apply:

"Defend" means that the office of the Iowa attorney general shall provide a public health response team member with legal representation at no cost to the public health response team member.

"Disaster medical assistance team" or *"DMAT"* means a public health response team that is sponsored and approved by the department to provide medical assistance in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143.

"Environmental health response team" or *"EHRT"* means a public health response team that is sponsored and approved by the department to provide environmental health expertise and assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

"Indemnify" means the state of Iowa will pay all sums that a public health response team member is legally obligated to pay as damages because of any claim made against the public health response team member that arises out of the provision of direct medical care or other support services rendered or that should have been rendered during a disaster, threatened disaster, or other incident defined in Iowa Code section 135.143, or arising out of a training exercise to prepare for a disaster or other incident defined in Iowa Code section 135.143.

"Iowa mortuary operational response team" or *"IMORT"* means a public health response team that is sponsored and approved by the department to provide decedent care in the event of a mass fatality disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

"Logistical support response team" or *"LSRT"* means a public health response team that is sponsored and approved by the department to provide logistical support and assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

"Public health response team" or *"PHRT"* means a team of professionals, including licensed health care providers, nonmedical professionals skilled and trained in disaster or emergency response, and public health practitioners, that is sponsored and approved by the department to provide assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143. "Public health response team" includes a disaster medical assistance team, an environmental health response team, a logistical support response team, the Iowa mortuary operational response team and other teams established and approved upon written order of the director to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources.

"Public health response team member" or *"PHRT member"* means an individual who has registered with the department and has received approval from the department to serve on a public health response team.

641—113.2(135) Public health response team members.

113.2(1) *Registration and approval.* An individual may apply to the department to be a public health response team member. The applicant shall apply on the Iowa statewide registry of volunteers (iSERV) website or on a form approved by the department and shall provide all requested information. The department will register and approve an individual to serve as a PHRT member when the department is satisfied that the individual satisfies the requirements of this chapter and will perform on a PHRT in compliance with Iowa Code section 135.143 and this chapter. Upon registration and approval of an individual, the department will provide the individual with written notification that the individual is registered with the department and has been approved to serve on a PHRT. The written notification will also include the effective date of the approval and the terms and conditions of approval.

113.2(2) *Denial and revocation.* The department may deny approval to an individual or may revoke an individual's approval if the department determines the individual has violated or failed to comply with Iowa Code section 135.143 or this chapter, any term or condition contained in the written approval notification from the department, any operational procedure, or state or federal law or has exposed or may expose the state to undue risk. The department will notify the individual of the department's decision in writing by certified mail, return receipt requested. In the event an individual is dissatisfied with the department's decision, the individual may submit a request for reconsideration to the department. Such request shall be delivered by certified mail, return receipt requested, within 20 days of the date of the denial or revocation notification, to the department. The department will review the matter and issue a written decision within 20 days of receipt of the request. The department's decision shall be final agency action. This appeal process does not constitute a contested case proceeding as defined in Iowa Code chapter 17A.

113.2(3) *Effect of revocation.* If the department revokes a public health response team member's approval, the action may preclude future eligibility but shall not negate defense and indemnification coverage or other protection for covered acts or omissions that occurred during the effective date of approval.

641—113.3(135) Public health response team.

113.3(1) *General requirements.*

a. An individual may make application to be a member of a PHRT pursuant to subrule 113.2(1).

b. The department will establish the Iowa Volunteer Public Health Response Team Operational Procedures Manual, as amended to August 1, 2024. The operational procedures will be in writing and will be provided to each PHRT member. All PHRT members shall follow the PHRT operational procedures as established by the department. The Iowa Volunteer Public Health Response Team Operational Procedures Manual, as amended to August 1, 2024, is available from the department.

c. If the department notifies a PHRT member of a violation of Iowa Code section 135.143, this chapter, or an operational procedure, the PHRT member shall correct the deficiency or violation identified by the department within a time frame determined by the department. If a PHRT member fails to correct a deficiency or violation within the time frame identified by the department, or if the deficiency or violation constitutes an immediate danger to the public health, safety, or welfare, the department may initiate action to revoke approval pursuant to subrule 113.2(2).

113.3(2) *Team composition.*

a. A PHRT shall be comprised of health care professionals and administrative personnel as identified in the Iowa Volunteer Public Health Response Team Operational Procedures Manual.

b. The department is responsible for maintaining adequate staffing.

113.3(3) *Licensure and educational requirements.*

a. Each PHRT member shall hold and maintain an active unrestricted license, registration, or certification to practice in Iowa (if applicable) in the member's respective medical or health care profession.

b. Each PHRT member shall complete required training as listed in the Iowa Volunteer Public Health Response Team Operational Procedures Manual, as amended to August 1, 2024, including training specified in respective team annexes.

c. The department may provide specific position training to PHRT members as determined to be necessary.

d. The department will develop and implement training exercises to test the team's notification process, deployment readiness, and response capabilities.

e. The department is responsible for documenting each PHRT member's completion of required training.

113.3(4) *Deployment and standdown.*

a. PHRTs shall prepare to deploy within two to four hours of notification by the department. PHRTs shall not self-deploy and shall not be covered by the provisions of Iowa Code section 135.143 and this chapter if the PHRTs self-deploy or are deployed by another agency or entity.

b. Deployment and standdown procedures are outlined in the Iowa Volunteer Public Health Response Team Operational Procedures Manual, as amended to August 1, 2024, and shall be followed by all PHRT members.

641—113.4(135) Legal and other protections. A PHRT member acting pursuant to Iowa Code section 135.143 and this chapter shall be considered an employee of the state under Iowa Code section 29C.21 and chapter 669, shall be afforded protection as an employee of the state under Iowa Code section 669.21 whom the state shall defend and indemnify, and shall be considered an employee of the state for purposes of workers' compensation, disability, and death benefits, provided that the member has done all of the following:

1. Registered with and received approval from the department pursuant to subrule 113.2(1) to serve on a PHRT.

2. Provided direct medical care or other support services during a disaster, threatened disaster, or other incident described in Iowa Code section 135.143(1); or participated in a training exercise to prepare for a disaster or other incident described in Iowa Code section 135.143(1).

641—113.5(135) Reporting requirements and duties.

113.5(1) Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, medical or other services as a PHRT member, the member shall provide written notice to the department, as soon as practicable, containing to the extent obtainable the circumstance of the alleged injury, the name and address of the injured, and any other relevant information.

113.5(2) Upon obtaining knowledge or becoming aware of any injury as described in subrule 113.5(1), a PHRT member shall promptly take all reasonable steps to prevent further or additional injury from the same or similar circumstances, situations, or conditions.

113.5(3) A PHRT member shall immediately notify the office of the Iowa attorney general of service or receipt of an original petition, suit, or claim seeking damage from the PHRT member related to participation on a PHRT.

113.5(4) Each PHRT member shall fully cooperate with the state in the defense of any claim or suit related to participation on a PHRT, including attending hearings, depositions, and trials and assisting in securing and giving evidence, responding to discovery and ensuring the attendance of witnesses.

113.5(5) Each PHRT member shall accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation on a PHRT, including travel, meals, and compensation for time and lost practice.

These rules are intended to implement Iowa Code section 135.143.

ARC 8455C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to anatomical gift public awareness and transplantation fund and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 122, "Anatomical Gift Public Awareness and Transplantation Fund," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 142C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 142C.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. This chapter is intended to provide clarification of expectations of the disbursement of anatomical gift funds, which are from moneys donated through the vehicle registration process. This chapter is proposed to be rescinded since there is no explicit rulemaking authority.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision because this chapter is proposed to be rescinded.

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 January 17, 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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 122**.

ARC 8464C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to interagency coordinating council for the state medical examiner and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 124, "Interagency Coordinating Council for the State Medical Examiner," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 691.6B (repealed by 2024 Iowa Acts, Senate File 2385, section 368).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking implements, in part, 2024 Iowa Acts, Senate File 2385, section 368, which directs the repeal of Iowa Code section 691.6B, which describes the Interagency Coordinating Council. Chapter 124 is the chapter that describes the Interagency Coordinating Council of the State Medical Examiner and is therefore proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 12, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision in this rulemaking because the chapter is proposed to be rescinded.

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 January 17, 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:

January 15, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn

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 **641—Chapter 124**.

ARC 8461C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to emergency medical services advisory council and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 130, "Emergency Medical Services Advisory Council," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking implements, in part, 2024 Iowa Acts Senate File 2385, section 434, which amends Iowa Code section 147A.2, to eliminate the Emergency Medical Services Advisory Council. Chapter 130 is the chapter that describes the Emergency Medical Services Advisory Council and is therefore proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

There is no waiver provision in this rulemaking because the chapter is proposed to be rescinded.

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 January 17, 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:

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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 **641—Chapter 130**.

ARC 8545C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to emergency medical services, providers, initial certification, renewal and reactivation, authority, and complaints and investigations and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147A, 147D and 272C.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. This proposed chapter establishes the regulations and requirements for emergency medical provider initial certification for individuals who have been trained to provide emergency and nonemergency medical care at the emergency medical responder (EMR), emergency medical technician (EMT), advanced emergency medical technicians (AEMT), paramedic or other certification level recognized by the Department; describes the authority, permission to practice and scope of practice for certified emergency medical care providers in the state of Iowa; and establishes the regulations and requirements for renewal, extension and reactivation of an emergency medical care provider certification in the state of Iowa.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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 131 and adopt the following **new** chapter in lieu thereof:

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDERS—INITIAL CERTIFICATION—RENEWAL AND REACTIVATION—AUTHORITY—COMPLAINTS AND INVESTIGATIONS

641—131.1(147A,147D,272C) Definitions. For the purpose of these rules, the following definitions apply:

"Advanced emergency medical technician" or *"AEMT"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the Department or NREMT testing requirements for the AEMT, and is currently certified by the department as an AEMT.

"CAPCE" means the Commission on Accreditation for Prehospital Continuing Education, the accrediting body charged with the review and accreditation of EMS continuing education.

"CEH" means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

"Certification" or *"certificate"* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

"Certification period" means the length of time an emergency medical care provider certificate is valid. The certification period is two years from initial issuance or from renewal unless otherwise specified on the certificate or unless sooner suspended or revoked.

"Certification status" means the status of an individual EMS certificate holder.

1. "Active" means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.4(1).

2. "Probation," which is an active certification, means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.4(1) and under the conditions of probation.

3. "Denied" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

4. "Inactive" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

5. "Revoked" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

6. "Surrendered" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

7. "Suspended" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

"Certified" means being officially recognized as meeting department-approved testing and training standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A to practice as an emergency medical care provider in the state of Iowa.

"Compact" means the emergency medical services personnel licensure interstate compact according to Iowa Code chapter 147D.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Core continuing education" means education obtained during a certification period to renew certification. Core continuing education will have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

"Critical care paramedic" or *"CCP"* means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a certified profession, or (2) the circumstances under which an offense was committed are circumstances customary to a certified profession.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and these rules.

"Emergency medical care provider" means the same as defined in Iowa Code section 147A.1.

"Emergency medical care student" means an individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

"Emergency medical responder" or *"EMR"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the department or NREMT testing requirements for the EMR, and is currently certified by the department as an EMR.

"Emergency medical services" or *"EMS"* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

"Emergency medical technician" or *"EMT"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services

Education Standards (December 2021), has passed the department or NREMT testing requirements for the EMT, and is currently certified by the department as an EMT.

"Emergency medical technician-defibrillation" or *"EMT-D"* means an individual who has successfully completed an approved program and is currently certified by the department as an EMT-D.

"EMS clinical guidelines" or *"minimum EMS clinical guidelines"* means a minimum clinical standard approved by the department upon which a service program's medical director will base service program protocols.

"EMS instructor" or *"EMS-I"* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

"Endorsement" or *"endorsed"* means an approval granted by the department authorizing an individual to serve as an EMS-I or CCP.

"Fees" means those fees received pursuant to Iowa Code chapters 147A and 147D.

"First responder" or *"FR"* means an individual who has successfully completed an approved program and is currently certified by the department as an FR.

"First responder-defibrillation" or *"FR-D"* means an individual who has successfully completed an approved program and is currently certified by the department as an FR-D.

"NREMT" means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent practice by EMS professionals.

"Paramedic" or *"PM"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the department or NREMT testing requirements for the paramedic, and is currently certified by the department as a paramedic.

"Patient" means an individual who is sick, injured, or otherwise incapacitated and has been evaluated or provided treatment by an emergency medical care provider.

"Patient abandonment" means a termination of the provider/patient relationship at a time when a continuous level of care is needed. Patient abandonment does not occur when a scene is unsecured, deteriorates or becomes too dangerous for the emergency medical care provider to safely function. Patient abandonment does not occur when patient care is transferred to another emergency medical care provider following assessment or triage.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Protocols" means written directions and orders approved by a service program's medical director utilizing the EMS clinical guidelines.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Service program" or *"service"* means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

641—131.2(147A,272C) Initial certification.

131.2(1) An individual who has successfully completed the training program requirements at the EMR, EMT, AEMT or paramedic level and has a valid certification with NREMT shall submit the following to the department for initial Iowa emergency medical care provider certification:

a. A completed EMS certification application.

b. An NREMT active certification number.

c. Payment of the initial application fee.

d. Two completed fingerprint cards for background checks.

e. Payment of the background check fee.

131.2(2) The individual seeking an Iowa emergency medical provider care certification shall submit all application materials within two years from the Iowa training program course completion date.

131.2(3) If the individual is unable to complete the requirements within two years due to medical reasons or military obligation, an extension may be granted upon submission of a signed statement from an appropriate medical or military authority and approval by the department.

131.2(4) Fees may be waived in accordance with provisions in Iowa Code chapter 272C.

131.2(5) Use of criminal convictions in eligibility determinations and initial licensing decisions.

a. License application. Unless an applicant for licensure petitions the department for an eligibility determination pursuant to paragraph 131.2(7)*"b,"* the applicant's convictions will be reviewed when the department receives a completed license application.

(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

(3) An applicant must submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the department.

(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

(6) Any application fees paid will not be refunded if the license is denied.

b. Eligibility determination. An individual who has not yet submitted a completed license application may petition the department for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the department for an eligibility determination prior to applying for licensure. To petition the department for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed petition for eligibility determination form;

(2) The complete criminal record for each of the petitioner's convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the department should find the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the department; and

(5) Payment of a nonrefundable fee of $25.

c. Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the department's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the department's written decision will become a final order.

(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding unless the department elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered is a proposed decision.

(2) The contested case hearing will be closed to the public and the department's review of a proposed decision will occur in closed session.

(3) The office of the attorney general will represent the department's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an

ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

d. Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

641—131.3(147A) Background check results. All criminal history records are confidential and will only be used in accordance with this policy to determine eligibility. All background check records will be stored in a secure location. Background check records will not be redisseminated by the department.

641—131.4(147A) Authority.

131.4(1) *Authority of emergency medical care provider.* An emergency medical care provider who holds an active Iowa certification issued by the department or has permission to practice in Iowa pursuant to Iowa Code chapter 147D may:

a. As a member of a responding authorized service program, render emergency medical care and perform emergency medical care without contacting medical direction if written protocols have been approved by the service program medical director.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when:

(1) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(2) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

131.4(2) *Scope of practice.*

a. Emergency medical care providers shall perform only those skills and procedures that are authorized within the scope of practice for which an emergency medical care provider is certified.

b. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the scope of practice adopted by reference and these rules, the rules prevail.

c. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is available on the department's website.

d. The department may grant a waiver for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 441—Chapter 6.

641—131.5(147A) Renewal standards, reactivation procedures, fees, and continuing education.

131.5(1) *Renewal of certification.*

a. An emergency medical care provider shall submit an application for renewal of an active Iowa EMS certification within 90 days prior to the certification expiration date.

b. The renewal application and process are completed online via an individual Iowa EMS provider account. The electronic portal to access individual accounts may be accessed through the department's website.

c. Renewal notifications will be sent to Iowa emergency medical care providers who have an active certification set to expire in 90 days. The notification will be sent by email to the address on file in the emergency medical care provider's electronic profile.

d. It is the emergency medical care provider's responsibility to ensure the electronic profile information, including the email address, is updated and correct within 30 days of any change.

e. A renewal certificate is valid for two years from the current expiration date unless sooner surrendered, suspended or revoked.

f. A lower-level certificate may be renewed if the individual voluntarily chooses to move from a higher level to a lower level by completing all applicable continuing education requirements for the lower level during the certification period and submitting a change of status request, available from the department upon request.

g. A certification status becomes inactive if the certificate has not been renewed by the certification expiration date unless the emergency medical care provider is granted an extension as described in subrule 131.5(3).

h. An emergency medical care provider may request an inactive status. The request must be made by submitting a change of status request, available from the department upon request. A request for inactive status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

131.5(2) *Late renewal of certification.*

a. An emergency medical care provider who has completed the required continuing education during the certification period but fails to submit the EMS renewal of certification application and applicable fees prior to the certification expiration date is eligible for late renewal of the inactive certification.

b. The emergency medical care provider shall complete the EMS renewal of certification application, submit a late fee in addition to the applicable renewal fee and submit an audit report form provided by the department. The fee and audit report form shall be submitted before the last day of the month following the certification expiration date. If the late renewal submission is not completed by the last day of the month following the certification expiration date, the certification remains inactive.

c. An emergency medical care provider who has not completed the required continuing education during the certification period is not eligible for late renewal. The certification is inactive.

131.5(3) *Extension of certification.*

a. An emergency medical care provider who is unable to attain all continuing education requirements within the certification period may request a 45-day extension. To complete the extension process, the provider shall:

(1) Submit a request for extension application, available from the department upon request, at least 7 days prior to the certification expiration date, but no more than 90 days prior to the certification expiration date, and payment of the extension fee.

(2) Complete the continuing education requirements.

(3) Complete and submit the EMS affirmative renewal of certification application, with all applicable renewal fees, to the department prior to the extended expiration date.

(4) Submit an audit report form provided by the department.

b. If an emergency medical care provider fails to submit any of the items required in subparagraphs 131.5(3)*"a"*(2) and (3) by the 45th day of the extended certification period, the certification will be inactive.

c. The emergency medical care provider may not use continuing education completed during the extension period in the subsequent renewal period.

131.5(4) *Reactivation of an inactive certification.*

a. Certification inactive up to 24 months. An emergency medical care provider may apply to reactivate an inactive certification up to 24 months after the certification became inactive.

(1) An individual will submit to the department an EMS certification reactivation application, which is available from the department upon request.

(2) If the department approves the application, the individual must submit an audit report form with 36 core continuing education hours prorated per lapsed year by core topic area and the reactivation fee.

(3) Upon receipt and approval of the items required in subparagraphs 131.5(4)*"a"*(1) and (2), the department may issue a new certification.

(4) An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

b. Certification inactive from 25 months to 48 months. An emergency medical care provider may apply to reactivate an inactive certification that has been inactive for 25 months but no more than 48 months.

(1) An individual will submit to the department an EMS certification reactivation application, which is available from the department upon request.

(2) If the department approves the application, the individual must submit documentation of successful completion of an approved EMS refresher course that includes successful completion of department or NREMT testing requirements. In addition, the individual must:

1. Complete fingerprint requirements.
2. Submit reactivation and background check fees.
3. Upon receipt and approval of the items required in subparagraphs 131.5(4)*"b"*(1) and (2), the department may issue a new certification.
4. An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

c. Certification inactive for more than 48 months. An emergency medical care provider may not apply to reactivate a certification that has been inactive for more than 48 months.

131.5(5) *Reactivation of revoked or suspended certification.*

a. Any person whose certification to practice has been revoked or suspended may apply to the department for reactivation in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reactivation might occur or if the certification was voluntarily surrendered, an initial application for reactivation may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

c. All proceedings for reactivation shall be initiated by the person whose certification has been revoked or suspended in accordance with subrule 131.5(4). An application for reactivation shall allege facts that, if established, will be sufficient to enable the department to determine that the basis for the revocation or suspension of the person's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts is on the person whose certification has been suspended or revoked.

d. An order denying or granting reactivation shall be based upon a decision that incorporates findings of facts and conclusions of law.

131.5(6) *Fees.* The nonrefundable fees are as follows:

a. Application for initial Iowa certification at all certification levels: $30.
b. Reactivation of a certification to practice: $30.
c. Renewal of a certification to practice as a first responder, EMR: no fee.
d. Renewal of a certification to practice as an EMT: no fee.
e. Renewal of a certification to practice as an AEMT: $10.
f. Renewal of a certification to practice as a paramedic: $25.
g. Late renewal of a certification to practice: $30.
h. Returned payment due to insufficient funds: $15.
i. Extension of certification: $50.

131.5(7) *Continuing education renewal.*

a. The table below illustrates the minimum number of core continuing education hours (CEHs) by topic area for each level of emergency medical care provider to renew an Iowa EMS certification.

Core Topics	EMR/FR	EMT/EMT-D	AEMT	PM
Airway, Respirations, Ventilations	1	1	2	3
Cardiology	2	6	7	9
Trauma	1	2	3	3
Medical	3	6	8	9
Operations	1	5	5	6
Totals	**8**	**20**	**25**	**30**

b. All core continuing education hours used to renew an Iowa EMS certification must have a sponsor number by an authorized Iowa training program, the department, the board of nursing, the board of medicine, or CAPCE before the emergency medical care provider attends the offering.

c. An emergency medical care provider who is registered with the NREMT may renew the provider's Iowa EMS certification by meeting the NREMT's requirements. The emergency medical care provider must submit the Iowa affirmative renewal of certification application and all appropriate fees.

d. An emergency medical care provider is deemed to have complied with the continuing education requirements during periods in which the provider serves honorably on active duty in the military services or for periods in which the provider is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The emergency medical care provider must submit the Iowa affirmative renewal of certification application, all appropriate fees and documentation of assignment.

e. The emergency medical care provider must maintain a file containing documentation of CEHs accrued during each certification period for four years from the end of each certification period.

f. A group of emergency medical care providers will be audited for each certification period. Emergency medical care providers to be audited will be chosen in a random manner or at the discretion of the department. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action. Those audited must submit a department-provided audit report form within 45 days of the request. If audited, the emergency medical care provider must provide the following information:

(1) Date of program.
(2) Program sponsor number.
(3) Title of program.
(4) Number of approved hours.

131.5(8) *Continuing education approval.* The following standards apply for approval of continuing education:

a. CEHs will have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

b. Human health-related college courses may be approved in advance by the department at one quarter credit equal to 10 CEHs, one semester credit equal to 15 CEHs.

131.5(9) *Out-of-state continuing education.* Out-of-state continuing education courses will be accepted for CEHs if all criteria in subrule 131.5(7) are met and if the courses have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department.

641—131.6(147A,272C) Discipline—denial, citation and warning, probation, suspension, or revocation of certificates or renewal.

131.6(1) This rule is not subject to waiver pursuant to 441—Chapter 6 or any other provision of law.

131.6(2) Prohibited grounds for discipline. The department will not suspend or revoke the certification of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

131.6(3) Methods of discipline.

a. The department has the authority to impose the following disciplinary sanctions against an emergency medical care provider:

(1) Issue a citation and warning.

(2) Impose a civil penalty not to exceed $1,000.

(3) Require reexamination.

(4) Require additional education or training.

(5) Impose a period of probation under specific conditions.

(6) Prohibit permanently, until further order of the department, or for a specific period, a provider's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.

(7) Suspend a certificate until further order of the department or for a specific period.

(8) Deny an application for certification.

(9) Revoke a certification.

(10) Impose such other sanctions as allowed by law and as may be appropriate.

b. A request for inactive status in connection with a disciplinary investigation or proceeding has the same effect as an order of revocation.

c. A citation and warning, denial, probation, restriction, suspension, revocation, or civil penalty imposed upon an individual certificate holder by the department will be considered applicable to all certificates and endorsements issued to that individual by the department.

d. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

131.6(4) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.6(3) when it finds that the individual or certificate holder has committed any of the following acts or offenses:

a. Negligence in performing emergency medical care.

b. Failure to follow the directions of supervising physicians or their designees.

c. Rendering treatment not authorized under Iowa Code chapter 147A.

d. Patient abandonment.

e. Fraud in procuring certification or renewal, including but not limited to:

(1) An intentional perversion of the truth in making application for a certification to practice in this state;

(2) False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a certification in this state; or

(3) Attempting to file or filing with the department or training program any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a certification in this state.

f. Professional incompetency. Professional incompetency includes but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

(2) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other emergency medical care providers in the state of Iowa acting in the same or similar circumstances.

(3) A failure to exercise the degree of care that is ordinarily exercised by the average emergency medical care provider acting in the same or similar circumstances.

(4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified emergency medical care providers in this state.

(5) A substantial lack of knowledge or ability to discharge professional obligations within the minimum clinical standards approved by the department.

g. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include but are not limited to:

(1) Verbally or physically abusing a patient, coworker or any other individual encountered while a certified emergency medical care provider.

(2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa.

(3) Betrayal of a professional confidence.

(4) Engaging in a professional conflict of interest.

(5) Falsification of medical records, official documents or other writings or records.

h. Engaging in any conduct that subverts or attempts to subvert a department investigation.

i. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

j. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

k. Failure to report another emergency medical care provider to the department for any violations listed in these rules pursuant to Iowa Code chapter 147A.

l. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

m. Representing oneself as an emergency medical care provider when one's certification has been suspended or revoked or when one's certification is lapsed or has been placed on inactive status.

n. Permitting the use of a certification by a noncertified person for any purpose.

o. Mental or physical inability reasonably related to and adversely affecting the emergency medical care provider's ability to practice in a safe and competent manner as determined by an evaluation from a licensed evaluator of the provider's mental or physical status.

p. Being adjudged mentally incompetent by a court of competent jurisdiction.

q. Sexual harassment of a patient, student, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.

r. Habitual intoxication or addiction to drugs.

(1) The inability of an emergency medical care provider to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

(2) The excessive use of drugs that may impair an emergency medical care provider's ability to practice with reasonable skill or safety.

(3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

s. Fraud in representation as to skill, ability or certification.

t. Willful or repeated violations of Iowa Code chapter 147A or these rules.

u. Conviction of a disqualifying offense. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction.

v. Having certification to practice emergency medical care suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

w. Falsifying certification renewal reports or failure to comply with the renewal audit request.

x. Acceptance of any fee by fraud or misrepresentation.

y. Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

z. Violating privacy and confidentiality. An emergency medical care provider shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.

aa. Discrimination. An emergency medical care provider shall not practice, condone, or facilitate discrimination against a patient, student, or any other individual encountered while acting as certified as an emergency medical care provider in the state of Iowa on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

ab. Practicing emergency medical services or using a designation of certification or otherwise holding oneself out as practicing emergency medical services at a certain level of certification when the emergency medical care provider is not certified at such level.

ac. Failure to respond within 30 days of receipt, unless otherwise specified, to communication from the department that was sent by registered or certified mail.

641—131.7(147A) Certification denial.

131.7(1) An individual who has been denied certification by the department may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the department not more than 20 days following the date of mailing of the notification of certification denial to the individual. The request for hearing shall specifically delineate the facts to be contested at hearing.

131.7(2) All hearings held pursuant to this rule will be held pursuant to the process outlined in this chapter.

641—131.8(147A) Emergency adjudicative proceedings. To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

131.8(1) Before issuing an emergency adjudicative order, the department will consider factors, including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the individual required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

131.8(2) Issuance of order.

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately delivered to the individual who is required to comply with the order. Delivery will be made by one or more of the following procedures:

(1) Personal delivery.

(2) Certified mail, return receipt requested, to the last address on file with the department.

(3) Fax. Fax may be used as the sole method of delivery if the individual required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the department will select the procedure for providing written notice that best ensures prompt, reliable delivery.

d. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department will make reasonable immediate efforts to contact by telephone the individual who is required to comply with the order.

e. After the issuance of an emergency adjudicative order, the department will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

f. Issuance of a written emergency adjudicative order will include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the individual who is required to comply with the order is the party requesting the continuance.

641—131.9(147A) Complaints, investigations and appeals.

131.9(1) This rule is not subject to waiver pursuant to 441—Chapter 6 or any other provision of law.

131.9(2) All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same shall be reported to the department in writing.

131.9(3) An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

131.9(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

131.9(5) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

131.9(6) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

131.9(7) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. If the request is made within the 20-day time period, the notice to take action is deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation becomes the department's final agency action.

131.9(8) Upon receipt of a request for hearing, the department will forward the request within five working days to the department of inspections, appeals, and licensing pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information that may be provided by the aggrieved party shall also be provided to the department of inspections, appeals, and licensing.

131.9(9) The hearing will be conducted according to the procedural rules of the department of inspections, appeals, and licensing found in 481—Chapter 10.

131.9(10) When the administrative law judge makes a proposed decision and order, it will be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then become the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 131.9(11).

131.9(11) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

131.9(12) Upon receipt of an appeal request, the administrative law judge will prepare the record of the hearing for submission to the director. The record will include the following:

a. All pleadings, motions, and rules.

b. All evidence received or considered and all other submissions by recording or transcript.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections and rulings on them.

e. All proposed findings and exceptions.

f. The proposed decision and order of the administrative law judge.

131.9(13) The decision and order of the director become the department's final agency action upon receipt by the aggrieved party and will be delivered by certified mail, return receipt requested, or by personal service.

131.9(14) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

131.9(15) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order become final. A copy of the notice of appeal will be sent to the department by certified mail, return receipt requested, or by personal service.

131.9(16) The party who appeals a final agency action to the district court will pay the cost of the preparation of a transcript of the contested case hearing for the district court.

131.9(17) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

These rules are intended to implement Iowa Code chapters 147A and 147D and section 272C.4.

ARC 8462C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to white flashing light authorization and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 133, "White Flashing Light Authorization," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321.423.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.423.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. This proposed chapter establishes issuance standards for white flashing light use, including allowing local emergency medical service providers to issue certificates of authorization and to establish certificate of authorization revocation procedures.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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 133 and adopt the following **new** chapter in lieu thereof:

CHAPTER 133
WHITE FLASHING LIGHT AUTHORIZATION

641—133.1(321) Definitions. For the purpose of these rules, the following definitions shall apply:

"Ambulance" means the same as defined in rule 641—132.1(147A).

"Authorization certificate" means a permit issued to an emergency medical care provider that authorizes the use of a white flashing light.

"Authorized vehicles" means any vehicles owned by members of the service program that are authorized by the department to use flashing white lights.

"Emergency medical care provider" means the same as defined in Iowa Code section 147A.1.

"First response vehicle" means the same as defined in rule 641—132.1(147A).

"Medical director" means the same as defined in rule 641—132.1(147A).

"Member" means any individual utilized by an ambulance or nontransport service to provide emergency medical care.

"Nontransport service" means the same as defined in rule 641—132.1(147A).

"Rescue vehicle" means the same as defined in Iowa Code section 321.1.

"Service director" means the same as defined in rule 641—132.1(147A).

"Service program" or *"service"* means the same as defined in Iowa Code section 147A.1.

"White light" means a white or clear rotating, flashing, or strobe lighting device utilized for identification purposes only. Any such lighting device shall not display a constant white or clear light to the rear of the vehicle.

641—133.2(321) Purpose.

133.2(1) Flashing white lights may be used on emergency vehicles or other authorized vehicles utilized by emergency medical care providers and service programs for identification purposes only.

133.2(2) Flashing white lights shall be used only on an authorized vehicle and shall not be used except in any of the following circumstances:

a. When responding to an emergency in the line of duty requiring the services of the member.

b. When at the scene of an emergency.

c. When transporting a patient during a disaster situation.

133.2(3) Owners and operators of authorized vehicles are responsible for ensuring that the lighting devices are utilized in a safe manner. This includes but is not limited to ensuring that lighting devices do not:

a. Obstruct the view of the vehicle operator.

b. Overburden the electrical system of the vehicle.

c. Interfere with the vision of the vehicle operator, passengers, or drivers of other vehicles.

133.2(4) Operators of authorized vehicles shall ensure that the authorization certificate is carried in the vehicle.

641—133.3(321) Application.

133.3(1) Authorization certificates will be issued by the service director for service vehicles and vehicles owned by emergency medical care providers who are members in good standing with the service. Authorization certificates are available from the department upon request. Vehicle authorization is limited to:

a. Vehicles owned or exclusively operated by the ambulance or nontransport service.

b. Vehicles owned or operated by emergency medical care provider members of the ambulance or nontransport service.

c. Vehicles owned or operated by the service program's medical director.

d. One authorization certificate per vehicle.

133.3(2) Nothing in these rules prevents the use of white flashing lights on vehicles that are authorized to use red or blue flashing lights.

133.3(3) The service director shall provide, upon request of the department or its agents, issued authorization certificates.

133.3(4) The authorization expires five years from the date issued unless sooner suspended or revoked.

133.3(5) The department may issue authorization certificates for vehicles used by employees of the department when responding to emergencies or disasters.

641—133.4(321) Approval, denial, probation, suspension and revocation of authorization.

133.4(1) The service director or the department may approve or deny an application and the department may place on probation, suspend or revoke an authorization certificate if the service director or the department finds reason to believe that the applicant or certificate holder:

a. Has failed to meet all applicable requirements of these rules.

b. Has been convicted of a moving violation while using flashing white lights.

c. Has utilized a white flashing light without obtaining an authorization certificate.

d. Does not have a valid driver's license.

e. Does not have a current vehicle registration.

133.4(2) The authorization certificate shall be surrendered upon the request of the department or its agents.

133.4(3) An emergency medical care provider or service director who has knowledge of any emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall, within 30 days, report that information to the department.

133.4(4) A denial, probation, suspension or revocation ordered by the department shall be effected and may be appealed according to the provisions set forth in 441—Chapter 7.

These rules are intended to implement Iowa Code section 321.423.

ARC 8463C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to out-of-hospital do-not-resuscitate orders and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 144A.7A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 144A.7A.

Purpose and Summary

These proposed rules direct EMS providers and service programs on the processes for the recognition of out-of-hospital do-not-resuscitate (OOH DNR) orders or identifiers and implementation of the OOH DNR protocol. In addition, these rules set forth guidelines for consideration by health care providers and organizations to help ensure uniform and orderly understandings, processes and procedures for the use and implementation of OOH DNR orders consistent with the provisions of Iowa Code chapter 144A.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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 142 and adopt the following **new** chapter in lieu thereof:

CHAPTER 142
OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

641—142.1(144A) Definitions. For the purpose of these rules, the following definitions apply:

"Adult" means an individual 18 years of age or older.

"Attending physician" means a physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

"Attending physician assistant" means the physician assistant selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

"Comfort care" means care within the scope of the health care provider's training and certification to alleviate pain and suffering but does not include resuscitative measures.

"Emergency medical care" means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by rule by the department.
5. Any other medical procedure approved by the department, by rule, as appropriate to be performed by emergency medical care providers who have been certified in that procedure.

"EMS provider" means an emergency medical care provider as defined in Iowa Code section 147A.1.

"Health care provider" means a person, including an emergency medical care provider, who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

"Hospital" means any hospital licensed under the provisions of Iowa Code section 135B.1.

"Life-sustaining procedure" means any medical procedure, treatment, or intervention, including resuscitation, which utilizes mechanical or artificial means to sustain, restore or supplant a spontaneous vital function, and when applied to a patient in a terminal condition, would serve only to prolong the dying process. "Life-sustaining procedure" does not include the provision of nutrition or hydration except when required to be provided parenterally or through intubation or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

"Medical direction" means direction, advice, or orders provided by a medical director or supervising physician.

"Medical director" means any physician licensed under Iowa Code chapter 148 who is responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

"Online medical direction" means immediate medical direction provided directly to service program emergency medical care providers, in accordance with written parameters and protocols, by the medical director or supervising physician, either on scene or by any telecommunications system.

"Out-of-hospital do-not-resuscitate identifier" or *"OOH DNR identifier"* means a durable yet easily removable unique identification approved by the department and worn by a patient who has an out-of-hospital do-not-resuscitate order.

"Out-of-hospital do-not-resuscitate order" or *"OOH DNR order"* means a written order on a form approved by the department, signed by an attending physician, executed in accordance with the requirements of Iowa Code section 144A.7A and issued consistent with Iowa Code section 144A.2, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital.

"Out-of-hospital do-not-resuscitate protocol" or *"OOH DNR protocol"* means the statewide protocol approved by the department and intended to avoid unwarranted resuscitation by emergency medical care providers when a valid out-of-hospital do-not-resuscitate order or identifier is encountered.

"Patient" means any individual who is sick, injured, or otherwise incapacitated.

"Physician" means any individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Qualified patient" means any patient who is an adult as defined in Iowa Code section 144A.2.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Resuscitation" means any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drugs intended to alter cardiac function or otherwise to sustain life.

"Service program" or *"service"* means any medical care ambulance service or nontransport service that has received authorization by the department.

"Supervising physician" means any physician licensed under Iowa Code chapter 148.

"Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

641—142.2(144A,147A) Responsibilities of the department.

142.2(1) *OOH DNR physician or physician assistant order.* The department designates the OOH DNR order form contained in Appendix A as the uniform OOH DNR order form to be used statewide. If an attending physician or attending physician assistant issues an OOH DNR order for a qualified patient, the physician or physician assistant must use the form contained in Appendix A.

142.2(2) *OOH DNR personal identifier.* The department designates the identifier supplied by MedicAlert® as the uniform personal identifier to be used for mobile qualified patients statewide. Instructions for obtaining a uniform personal identifier are contained in Appendix A.

142.2(3) *OOH DNR protocol.* The department designates the OOH DNR protocol contained in Appendix B as the uniform protocol to be used by EMS providers in implementing an OOH DNR order.

142.2(4) *Appendix A and Appendix B forms.* Forms referenced in subrules 142.3(1) through 142.3(3) are available through the department's website or by request.

641—142.3(144A,147A) EMS providers.

142.3(1) *Uniform protocol.* EMS providers shall act in accordance with the department's OOH DNR protocol when implementing an OOH DNR order. EMS service programs shall incorporate the OOH DNR protocol as part of their service protocols and, using educational materials consistent with the curriculum developed and approved by the department, shall inform and educate EMS providers on the protocol's requirements as well as the requirements of Iowa Code chapter 144A and these rules.

142.3(2) *Responsibility of the EMS provider.* The EMS provider responding outside a hospital as a member of a service program shall:

a. Evaluate the patient's status and needs through an assessment consistent with the provider's training and certification.

b. Determine the existence of an OOH DNR order or that the patient is wearing an OOH DNR identifier.

c. Honor the OOH DNR order or OOH DNR identifier worn by the patient.

d. Discontinue resuscitation if the OOH DNR order or OOH DNR identifier worn by the patient is discovered after resuscitation has begun.

e. Follow the OOH DNR protocol.

f. Provide comfort care to the patient at all times.

g. Contact on-line medical direction for further instructions as necessary to provide appropriate patient care.

h. If uncertainty exists regarding the validity or applicability of the OOH DNR order or identifier, the EMS provider shall provide the necessary and appropriate resuscitation.

i. Document compliance or noncompliance with the OOH DNR order and the reasons for not complying with the order, including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order.

641—142.4(144A) Guidelines for non-EMS health care providers, patients, and organizations. In order to encourage understanding and implementation of OOH DNR orders and protocols throughout Iowa and honor a qualified patient's wishes and intent regarding the provision of life-sustaining procedures in an out-of-hospital setting consistent with the requirements of Iowa Code chapter 144A, the following guidelines should be considered.

142.4(1) *Attending physicians or attending physician assistants who issue OOH DNR orders.* The attending physician or attending physician assistant should ensure that the following are accomplished:

a. Establish that the patient is qualified because the patient:

(1) Is an adult; and

(2) Has a terminal condition.

b. Explain to the patient or the individual legally authorized to act on the patient's behalf the implications of an OOH DNR order.

c. If the qualified patient or individual legally authorized to act on the patient's behalf decides that the patient should not be resuscitated, the attending physician or attending physician assistant may issue the OOH DNR order on the prescribed uniform order form. The order will direct health care providers to withhold or withdraw resuscitation.

d. Explain to the qualified patient or the individual legally authorized to act on the patient's behalf how the OOH DNR order is revoked.

e. Include a copy of the order in the qualified patient's medical record.

f. Provide a copy of the order to the qualified patient or the individual legally authorized to act on the patient's behalf.

142.4(2) *Qualified patients or legally authorized persons.* A qualified patient or a person legally authorized to act on a qualified patient's behalf should:

a. Make an informed decision concerning resuscitation in the face of a terminal condition.

b. Ensure that the qualified patient's family members are aware of this decision and inform them of the location of the OOH DNR order and the purpose of an OOH DNR identifier.

c. Understand the process for revocation as described in rule 641—142.5(144A).

142.4(3) *Non-EMS health care providers.* A non-EMS health care provider contemplating resuscitation for a patient should:

a. Evaluate the patient's status and needs through an assessment consistent with the provider's training, certification and licensure.

b. Determine that the presenting condition is within the scope of the patient's terminal condition and is not the result of a motor vehicle collision, fire, mass casualty or other cause of a sudden accident or injury.

c. Determine the existence of an OOH DNR order or that the patient is wearing an OOH DNR identifier.

d. Honor the OOH DNR order or OOH DNR identifier worn by the patient.

e. Discontinue resuscitation if the OOH DNR order or OOH DNR identifier worn by the patient is discovered after resuscitation has begun.

f. Provide comfort care to the patient at all times.

g. If uncertainty exists regarding the validity or applicability of the OOH DNR order or identifier, the health care provider shall provide the necessary and appropriate resuscitation.

h. Document compliance or noncompliance with the OOH DNR order and the reasons for not complying with the order, including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order or OOH DNR identifier.

142.4(4) *Hospitals.* A hospital:

a. Is not precluded from honoring an OOH DNR order entered in accordance with this chapter and in compliance with established hospital policies and protocols.

b. Should, to avail itself of the immunities provided within Iowa Code chapter 142, establish such policies and protocols to address an OOH DNR order or identifier encountered on a person who presents to the emergency department or in any other area within the facility if the person presents as a patient or visitor.

c. Should integrate policies and procedures with the OOH DNR protocol for hospital-based ambulance service programs, if present.

142.4(5) *Other health care organizations.* A nursing home, home health care agency, hospice, or other health care organization should establish policies and protocols consistent with these rules to address admitted patients who have OOH DNR orders.

641—142.5(144A) Revocation of the out-of-hospital do-not-resuscitate order. An OOH DNR order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as designated on the OOH DNR order, is able to communicate in any manner the intent that the order be revoked, without regard to the mental or physical condition of the patient. A revocation is only effective as to the health care provider upon communication to that provider by the patient, an individual authorized to act on the patient's behalf as designated in the OOH DNR order, or by another person to whom the revocation is communicated by the patient.

641—142.6(144A) Personal wishes of family members or other individuals who are not authorized to act on the patient's behalf. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf cannot supersede a valid OOH DNR order.

641—142.7(144A) Transfer of patients.

142.7(1) An attending physician or attending physician assistant who is unwilling to comply with an OOH DNR order or who is unwilling to comply with the provisions of Iowa Code section 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician or physician assistant.

142.7(2) If the policies of a hospital, nursing home, home health care agency, hospice or other health care organization preclude compliance with the OOH DNR order of a qualified patient, the provider shall take all reasonable steps to effect the transfer of the patient to an organization in which the provisions of Iowa Code section 144A.7A can be carried out.

641—142.8(144A) Application to existing orders.

142.8(1) An OOH DNR order or similar order executed prior to September 10, 2003, is valid and shall be honored in accordance with the then-applicable provisions of the law.

142.8(2) Health care providers may honor an OOH DNR order or identifier from another state if it can be validated and applied in a manner consistent with the OOH DNR order or identifier prescribed in these rules. In cases where there is uncertainty, clarification should be sought through on-line medical direction or resuscitation efforts should be initiated.

These rules are intended to implement Iowa Code sections 144A.7A and 147A.4.

APPENDIX A

Iowa Department of Health and Human Services
OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER
(Please type or print)

Date of Order: _____/_____/_____
Patient Information:
Name: (Last)_____(First)_____(Middle)_____
Address: _____(City)_____(Zip)_____
Date of Birth: _____/_____/_____ Gender (Circle): M or F
Name of Hospice or Care Facility (if applicable): _____

Attending Physician or Physician Assistant Order

As the attending physician or attending physician assistant for the above-named patient, I certify that this individual is over 18 years of age and has a terminal diagnosis. After consultation with this patient (or the patient's legal representative), I hereby direct any and all health care providers, including qualified emergency medical services (EMS) personnel, to withhold or withdraw the following life-sustaining procedures in accordance with Iowa law (Iowa Code chapter 142A):

- Cardiopulmonary Resuscitation/Cardiac Compression (Chest Compressions).
- Endotracheal Intubation/Artificial or Mechanical Ventilation (Advance Airway Management).
- Defibrillation and Related Procedures.
- Use of Resuscitation Drugs.

This directive does NOT apply to other medical interventions for comfort care.

_____ _____/_____/_____
Signature of Attending Physician (MD, DO) or Attending Physician Assistant **Date**

_____ (_____)_____-_____
Printed Name of Attending Physician or Attending Physician Assistant **Physician's or Physician Assistant's Telephone (Emergency)**

To the extent that it is possible, a person designated by the patient may revoke this order on the patient's behalf. If the patient wishes to authorize any other person(s) to revoke this order, the patient MUST list those persons' names below:

Name: _____
Name: _____
Name: _____
Name: _____

Patients, please note: Directions for obtaining a uniform identifier are listed on the back of this form. The uniform identifier is the key way the health care provider and/or EMS personnel can quickly recognize that you have an Out-of-Hospital Do-Not-Resuscitate order. If you are not wearing an identifier, the health care provider and/or EMS personnel may not realize that you do not want to be resuscitated.

Physicians or physician assistants, please note: Information regarding the completion of an Out-of-Hospital Do-Not-Resuscitate order is on the back of this form.

APPENDIX A

Directions for obtaining a uniform identifier:

The uniform identifier may be obtained through MedicAlert®[1], which requires:

1. A completed MedicAlert® application, which is available in physician or physician assistant offices or through MedicAlert® by phoning (800)432-5378 or the website www.medicalert.org, and fee.
2. A copy of this completed OOH DNR order, which must accompany the MedicAlert® application or be sent to MedicAlert® prior to the identifier's being mailed.

[1]MedicAlert® is a nonprofit 501C membership organization.

Suggested guidelines for physicians or physician assistants:

1. Please review the Iowa Out-of-Hospital Do-Not-Resuscitate order and related protocol with the patient/patient's legal representative(s). The following points may be helpful:

- Patient/patient's legal representative(s) listed on this order must understand the significance of this order, that in the event the patient's heart or breathing stops or malfunctions, the anticipated result of this order is death.
- Patient/patient's legal representative(s) listed on this order may revoke this directive at any time. However, the desire to revoke must be communicated to the EMS or other health care professionals at the scene.
- It is important to emphasize that this order does not apply to medical interventions to make the patient more comfortable.
- The importance of wearing the uniform identifier for those qualified patients who would benefit from the mobility this offers should be stressed. It is also helpful to walk patients through the process they must follow to acquire the identifier.

2. Provide a copy of this order to the patient/patient's legal representative(s) listed on this order and place the original in the patient's medical records.

The OOH DNR Order form is available through the department's website.

APPENDIX B

EMS OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PROTOCOL

Purpose: This protocol is intended to avoid unwarranted resuscitation by emergency care providers in the out-of-hospital setting for a *qualified patient*.[1] There must be a valid Out-of-Hospital Do-Not-Resuscitate (OOH DNR) order signed by the qualified patient's attending physician or physician assistant or the presence of the OOH DNR identifier indicating the existence of a valid OOH DNR order.

No resuscitation: Means withholding any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to:

1. Chest compressions,
2. Defibrillation,
3. Esophageal/tracheal/double-lumen airway; endotracheal intubation, or
4. Emergency drugs to alter cardiac or respiratory function or otherwise sustain life.

Patient criteria: The following patients are recognized as qualified patients to receive no resuscitation:

1. The presence of the uniform OOH DNR order or uniform OOH DNR identifier, or
2. The presence of the attending physician or attending physician assistant to provide direct verbal orders for care of the patient.

The presence of a signed physician or physician assistant order on a form other than the uniform OOH DNR order form approved by the department may be honored if approved by the service program EMS medical director. However, the immunities provided by law apply only in the presence of the uniform OOH DNR order or uniform OOH DNR identifier. When the uniform OOH DNR order or uniform OOH DNR identifier is not present, contact must be made with on-line medical control and on-line medical control must concur that no resuscitation is appropriate.

Revocation: An OOH DNR order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as listed on the OOH DNR order, is able to communicate in any manner the intent that the order be revoked. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid OOH DNR order.

Comfort Care (♥): When a patient has met the criteria for no resuscitation under the foregoing information, the emergency care provider should continue to provide that care which is intended to make the patient comfortable (a.k.a. **♥Comfort Care**). Whether other types of care are indicated will depend upon individual circumstances for which medical control may be contacted by or through the responding ambulance service personnel.

♥***Comfort Care*** *may include but is not limited to:*

1. *Pain medication.*
2. *Fluid therapy.*
3. *Respiratory assistance (oxygen and suctioning).*

[1]*Qualified patient* means an adult patient determined by an attending physician or attending physician assistant to be in a terminal condition for which the attending physician or attending physician assistant has issued an Out-of-Hospital DNR order in accordance with the law. (Rule 641—142.1(144A), definitions)

ARC 8457C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to automated external defibrillator maintenance and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 143, "Automated External Defibrillator Maintenance," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 613.17.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 613.17.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The proposed rules set the standards under which a person or entity that owns, manages, or is otherwise responsible for the premises on which an automated external defibrillator is located, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct, if the person or entity maintains the automated external defibrillator in a condition for immediate and effective use at all times.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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 143 and adopt the following **new** chapter in lieu thereof:

CHAPTER 143
AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

641—143.1(613) Definition. For the purposes of these rules, the following definition applies:

"Automated external defibrillator" or *"AED"* means an external semiautomatic device that determines whether defibrillation is required.

641—143.2(613) AED maintenance. The person or entity maintaining the AED shall:

143.2(1) Ensure that the AED is maintained and inspected in accordance with the manufacturer's guidelines.

143.2(2) Ensure that the AED is programmed to conform to nationally accepted guidelines for treatment of cardiac arrest patients.

These rules are intended to implement Iowa Code section 613.17.

ARC 8465C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to stroke care reporting and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 146, "Stroke Care Reporting," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.191.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The purpose of this proposed chapter is to improve stroke care in Iowa by promoting consistent adherence to the latest scientific treatment guidelines.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 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:

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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 146 and adopt the following **new** chapter in lieu thereof:

CHAPTER 146
STROKE CARE REPORTING

641—146.1(135) Definitions.

"Comprehensive stroke center" means a hospital certified as a comprehensive stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Primary stroke center" means a hospital certified as a primary stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Stroke" means a clinical diagnosis of acute stroke or principal International Classification of Disease, 10th Revision, Clinical Modification (ICD-10-CM) discharge code of "stroke," or "transient ischemic attack," or "cerebral infarction," or "cerebral hemorrhage."

"Stroke care" means care provided to individuals with confirmed cases of stroke.

641—146.2(135) Stroke care reporting.

146.2(1) *Iowa statewide stroke database.* The department designates the Get with the Guidelines stroke module of the American Heart Association/American Stroke Association as the Iowa stroke database established in Iowa Code section 135.191.

146.2(2) *Who is required to report.* All nationally certified comprehensive stroke centers and all nationally certified primary stroke centers operating in the state of Iowa are required to report stroke data. Nationally certified acute stroke-ready hospitals and emergency medical services operating in the state of Iowa are encouraged to report stroke care data.

146.2(3) *What is to be reported.* Reportable data are those data identified by a clinical diagnosis of acute stroke or by the following ICD-10 coding:

ICD-10-CM Code	Short Description
I60.00 - I60.9	Nontraumatic subarachnoid hemorrhage
I61.0 - I61.9	Nontraumatic intracerebral hemorrhage
I63.00 - I63.9	Cerebral infarction (occlusion and stenosis of cerebral and precerebral arteries, resulting in cerebral infarction)
G45.0 - G45.2	TIA and related syndromes
G45.8 - G45.9	TIA and related syndromes
O99.411 - O99.43	Diseases of the circulatory system complicating pregnancy, childbirth and puerperium
G97.31 - G97.32	Intraoperative hemorrhage and hematoma of a nervous system organ or structure complicating a procedure
G97.51 - G97.52	Postprocedural hemorrhage and hematoma of a nervous system organ or structure following a procedure
I97.810 - I97.821	Intraoperative and postoperative cerebrovascular infarction

641—146.3(135) Method and frequency of reporting.

146.3(1) Stroke centers shall report the required stroke care information for any reportable stroke case no later than 120 days after the patient was discharged, transferred to another hospital, or pronounced dead.

146.3(2) Reports shall meet the data quality, format, and timeliness standards prescribed by the Iowa statewide stroke database.

641—146.4(135) Confidentiality. The Iowa statewide stroke database will comply with federal and state law and other health information and data collection, storage, and sharing requirements of the department.

641—146.5(135) Penalties and enforcement. If a stroke center reporting under this chapter does not comply with the reporting requirements, the department may request a review of the certification of the comprehensive or primary stroke center by the certifying entity.

These rules are intended to implement Iowa Code section 135.191.

ARC 8677C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rulemaking related to liquefied petroleum gas and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 226, "Liquefied Petroleum Gas," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 101.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101 and Executive Order 10 (January 10, 2023).

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 226. This rulemaking implements Iowa Code section 101.1 in accordance with the goals and directives of Executive Order 10. Iowa Code section 101.1 requires that the Department adopt reasonable rules for the safe transportation, storage, handling, and use of liquefied petroleum gases. Iowa Code section 101.2 requires the rules to be in

substantial compliance with the standards of the National Fire Protection Association (NFPA) relating to liquefied petroleum gases. Iowa Code section 101.3 states that the rules governing liquefied petroleum gas shall be formulated and promulgated separately from those covering combustible and flammable liquids and liquefied natural gases. Iowa Code section 10A.511 grants to the director of the Department the duty to enforce all laws, rules and regulations concerning the storage, transportation, handling, and use of liquid petroleum gas.

The proposed rules implement the aforementioned Iowa Code sections by adopting the provisions of the NFPA 54-ANSI Z223.1 and 58, 2024 edition, with amendments.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 25, 2024

The Department received one public comment from the Iowa Propane Gas Association (IPGA). The IPGA suggested that the references to specific versions of NFPA-54 and NFPA-58 be removed from the chapter to give clarity to Iowa businesses. However, Iowa Code section 17A.6(5) requires that rules that reference another publication cite a date certain, edition or amendment number identifying the specific version of the publication.

The IPGA also suggested that the rulemaking replace the word "will" with "shall" to align with the NFPA definitions. While that change would make the rulemaking more restrictive, it was requested by members of the industry. Furthermore, Iowa Code section 101.2 requires that the rules adopted in this chapter comply with the standards in the NFPA. The rulemaking has been revised to implement this suggestion.

Finally, the IPGA suggested that the last sentence in rule 661—226.1(101), numbered paragraph "1," be revised to replace the words "any local" in the phrase "Any local fire department where the tank(s) is located will be advised of each installation" with the words "The reporting" or "Any reporting" fire department. The suggestion clarifies which fire department needs to be notified of installations. That suggested change has been implemented.

Fiscal Impact

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

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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9:30 to 10 a.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1:30 to 2 p.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 226 and adopt the following **new** chapter in lieu thereof:

CHAPTER 226
LIQUEFIED PETROLEUM GAS

661—226.1(101) General requirements. The provisions of the National Fire Protection Association, NFPA 54, ANSI Z223.1-2024 National Fuel Gas Code, 2024 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2024 edition, published by the National Fire Protection Association and available at www.nfpa.org, and all references contained therein, are hereby adopted by reference as the general requirements for transportation, storage, handling, and use of liquefied petroleum gas, with the following amendments and interpretive guidelines:

1. Where a stationary installation utilizes a storage container of more than 2,000 gallons (7,750 L) of individual water capacity, or the aggregate water capacity of storage containers in a grouping is more than 4,000 gallons (15,140 L) in water capacity, the installer shall submit plans for such installation to the department for review and approval. Installation shall not commence until written approval from the department has been received. Any reporting fire department where the tank(s) is located will be advised of each installation.

2. Underground gas piping that is outside a building shall not be in physical contact with any concrete.

3. Cylinders installed permanently on roofs of buildings are prohibited.

4. All training programs shall be instructor-led by a competent trainer and include a closed book test and a skills assessment.

5. Prior to acceptance and initial operation, all piping systems (including hose) shall be visually inspected and pressure-tested by the installer to determine that the materials, design, fabrication, and installation practices comply with the requirements of this chapter.

a. Pressure testing of piping systems is required as follows:

i. Piping systems with operating pressures greater than 20 psi shall have a test pressure no less than 50 psi and shall not exceed 75 psi.

(1) The test medium used for pressure testing shall be air, nitrogen, carbon dioxide, or an inert gas.

(2) Propane vapor may be used; propane liquid shall not be used.

ii. Piping systems having operating pressures of 20 psi or less, and piping to which NFPA 54, National Fuel Gas Code, is applicable shall be pressure tested in accordance with that code.

(1) The test medium used for pressure testing shall be air, nitrogen, carbon dioxide, or an inert gas.

6. On or after January 1, 2012, the use of railroad tank cars in stationary service will be prohibited.

a. Existing installations with prior approval of the department (documented in writing) will be permitted to remain in service.

7. To the extent that NFPA standards are inconsistent with International Fire Code standards, the NFPA standards shall rule.

This rule is intended to implement Iowa Code chapter 101.

ARC 8667C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rulemaking related to liquefied natural gas and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 228, "Liquefied Natural Gas," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 101.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101 and Executive Order 10 (January 10, 2023).

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 228. This rulemaking implements Iowa Code section 101.1 in accordance with the goals and directives of Executive Order 10. Iowa Code section 101.1 requires that the Department adopt reasonable rules for the safe transportation, storage, handling, and use of liquefied natural gases. Iowa Code section 101.2 requires that the rules be in substantial compliance with the standards of the National Fire Protection Association relating to liquefied natural gases. Iowa Code section 10A.511 requires the Director to enforce all laws, rules and regulations concerning the storage, transportation, handling, and use of flammable liquids, combustibles, fireworks and explosives, as well as liquid petroleum gas.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 25, 2024

The Department received no public comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9:30 to 10 a.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1:30 to 2 p.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 228 and adopt the following **new** chapter in lieu thereof:

CHAPTER 228
LIQUEFIED NATURAL GAS

661—228.1(101) Transportation, storage, handling, and use of liquefied natural gas. NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 2023 edition, published by the National Fire Protection Association and available at www.nfpa.org, is adopted by

reference as the rules governing the transportation, storage, handling, and use of liquefied natural gas. Persons who transport, store, handle, or use liquefied natural gas shall comply with the applicable requirements established therein.

This rule is intended to implement Iowa Code chapter 101.

ARC 8668C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rulemaking related to explosive materials and licensing for commercial explosive contractors and blasters and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 231, "Manufacturing, Storage, Handling, and Use of Explosive Materials"; adopt new Chapter 231, "Manufacturing, Storage, Handling, Use of Explosive Materials, and Licensing for Commercial Explosive Contractors and Blasters"; and rescind Chapter 235, "Licensing of Commercial Explosive Contractors and Blasters," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 10A.511 and 101A.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101A and Executive Order 10 (January 10, 2023).

Purpose and Summary

This rulemaking proposes the repromulgation of Chapters 231 and 235 into one combined chapter. This rulemaking implements Iowa Code sections 10A.511 and 101A.5 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.511(3) provides that the Director of the Department shall promulgate fire safety rules in consultation with the state fire marshal. The rules are to promote and enforce fire safety, fire protection, and the elimination of fire hazards relating to the use, occupancy, and construction of buildings, establishments, or structures. Rules shall be in substantial compliance, except as otherwise specifically provided in Iowa Code chapter 10A, with the standards of the National Fire Protection Association (NFPA) relating to fire safety as published in the national fire codes.

Iowa Code section 101A.5 provides that the Director shall adopt rules pursuant to Iowa Code chapter 17A pertaining to the manufacture, transportation, storage, possession, and use of explosives materials. Rules must be compatible with but not limited to the NFPA's pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. The Director will also require reports from licensees and permittees as are necessary to discharge the Director's duties and will prescribe the form and content of license and permit applications. The Director is required to conduct any inspections necessary to enforce the provisions of Iowa Code chapter 101A.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 25, 2024

The Department received one public comment. The public comment detailed concern that there be no duplication between the federal and state regulations causing redundancy and conflict within any of the

aspects of the regulations. The public comment expressed a desire to ensure that the rulemaking would not affect the ability of the United States military to operate in the state of Iowa. Iowa Code section 101A.10 exempts the military from the rulemaking. The federal and state regulations are not in conflict, nor is there redundancy between federal and state regulations. No changes were made to the rulemaking due to the public comment.

Fiscal Impact

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

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 January 15, 2025. Comments should be directed to:

Amy Oetken
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: amy.oetken@dia.iowa.gov

Public Hearing

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

January 14, 2025 9:30 to 10 a.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
January 15, 2025 1:30 to 2 p.m.	Geode Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 231 and adopt the following **new** chapter in lieu thereof:

CHAPTER 231
MANUFACTURING, STORAGE, HANDLING, USE OF EXPLOSIVE MATERIALS, AND LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

NOTE: Any person who purchases, possesses, transports, stores, or uses explosive materials must comply with all applicable federal laws and regulations as well as with Iowa Code chapter 101A and this chapter.

661—231.1(101A) Explosive materials. NFPA 495, "Explosive Materials Code," 2023 edition, is hereby adopted by reference as the rules governing the manufacture, transportation, storage, and use of explosive materials in the state of Iowa, with the following amendments:

Delete the phrase "authority having jurisdiction" wherever it occurs and insert in lieu thereof the phrase "director."

Delete the phrases "issuing authority" and "permit-issuing authority" wherever they occur and insert in lieu thereof the phrase "director."

Amend Section 1.5 to read as follows:

1.5 Equivalency.

Nothing in this code is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety over those prescribed by this code. Any request for approval to use systems, methods, or devices other than those specified in this chapter shall be submitted to the director as a request for a waiver of a rule.

Delete Sections 4.7 through 4.7.4.

Amend Sections 4.2, 4.2.1, 4.2.2, 4.2.3, 4.3 through 4.3.2, 4.4 through 4.4.5, 4.5, 4.5.1, 4.5.2, 4.5.3, 4.6 through 4.6.3, 4.8.1, 4.8.3, and 4.8.4, by deleting the words "permit" and "permits" wherever they occur and inserting in lieu thereof, respectively, the words "license."

Add the following new section:

9.4.6.3 A fire department that has received information pursuant to this section may re-disseminate the information to the state fire marshal, another fire department that is responding to a fire or other incident at the location at which the explosives are stored, or to a law enforcement agency. Information received by a fire department pursuant to this section shall not be redisseminated except as provided in this section.

Amend Section 9.6.3.7 Type 3 magazines containing explosive materials shall be within line-of-sight vision of a blaster or, if not within line-of-sight vision of a blaster, shall be secured if in a vehicle or in a secure building, facility, or area.

661—231.2(101A) Definitions. Definitions set forth in Iowa Code section 101A.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

"Actual possession" means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

"Applicant" means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of "employee possessor" or "responsible person" as defined in this chapter.

"Commercial explosive blaster" or *"blaster"* means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

"Commercial explosive contractor" or *"contractor"* means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

"Constructive possession" means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

"Employee possessor" means an individual who has actual or constructive possession of explosive materials during the course of the individual's employment.

"Offense directly relates" refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

"Responsible person" means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

661—231.3(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current commercial explosive blaster license issued pursuant to this chapter. A commercial explosive blaster license is not required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes "fireworks" from the definition of "explosive." Consequently, working with fireworks does not necessitate a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks necessitate a commercial explosive license.

661—231.4(101A,272C) License application process.

231.4(1) *Application for commercial explosive contractor or commercial explosive blaster license.* Applications for a commercial explosive contractor license or a commercial explosive blaster license are available on the department's website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

231.4(2) *Submission of application and required information.* A completed application for a license shall be submitted to the department at the address specified on the department's website. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

231.4(3) *License fee.* Each license application shall be accompanied by a license fee as set forth in Iowa Code section 101A.2(2). The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

231.4(4) *License duration.* Licensure will normally be for three years and expire on December 31 of the third year after it is issued, except that a license issued in December of any year expires on December 31 after two years have passed from the date on which the license was issued.

231.4(5) *Criminal history.* An applicant is subject to a national criminal history check pursuant to Iowa Code section 101A.2(3).

231.4(6) *Veterans and military service members.* Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster should apply for licensure in accordance with 481—Chapter 7.

661—231.5(101A) Issuance of commercial explosive contractor license. A commercial explosive contractor license will be issued if all of the following conditions have been satisfied:

231.5(1) All items required on the application have been completed, and any items the department deems necessary to verify have been appropriately verified.

231.5(2) No applicant for whom commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective contractor licensee may:

a. Have been convicted of any offense involving explosives or firearms;

b. Have been previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. Be an unlawful user of or be addicted to controlled substances;

d. Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

231.5(3) The applicant has at least one responsible person or employee licensed as a commercial explosive blaster.

661—231.6(101A) Issuance of a commercial explosive blaster license. A commercial explosive blaster license will be issued if all of the following conditions have been satisfied:

231.6(1) The applicant is an employee of a licensed commercial explosive contractor.

a. If, after a commercial explosive blaster license is issued, such employment ceases, the employing contractor and the commercial explosive blaster shall each notify the department within three business days of the final day of employment that the employment has ceased, and the commercial explosive blaster license shall be suspended until the commercial explosive blaster is again employed with a licensed commercial explosive contractor.

b. Upon reemployment, the employer shall notify the department that the commercial explosive blaster is again employed with a licensed commercial explosive contractor, and the department will reinstate the commercial explosive blaster license as soon as practical, provided that the commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the department finds that a commercial explosive blaster is disqualified from holding a license, the department shall revoke the license.

231.6(2) All items required on the application have been completed and any items the department deems necessary to verify have been verified and found to be true.

231.6(3) The applicant is not or has not been:

a. Convicted of any offense involving explosives or firearms;

b. Previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. An unlawful user of or addicted to controlled substances;

d. Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

e. A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely toward themselves or others.

231.6(4) The applicant has satisfactorily completed training approved by the department for the handling and use of explosives as described on the department's website. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The department may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive contractor licensee.

EXCEPTION: The department may issue a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the department finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

231.6(5) An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

231.6(6) The applicant is 21 years of age or older.

661—231.7(272C) Licensure of persons licensed in other jurisdictions.

231.7(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

231.7(2) Notwithstanding any other provision of law, a commercial explosive contractor license or commercial blaster license will be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a commercial explosive contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the department shall determine if the cause for the action was corrected and the matter resolved. If the department determines that the matter has not been resolved by the jurisdiction imposing discipline, the department shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the department shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the commercial explosive contractor license or commercial blaster license applied for in this state.

231.7(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the department marshal.

231.7(4) This rule does not apply to any of the following:

a. The ability of the department to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the department requires an applicant to take and pass an examination specific to the laws of this state, the department will issue an applicant a temporary license

that is valid for a period of three months and may be renewed once for an additional period of three months.

231.7(5) Except as provided in subrule 231.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosive contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the department in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the department.

231.7(6) A person applying for a license in this state under the requirements of this subrule shall submit the request in writing to the department providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

661—231.8(101A) Inventory and records. Each licensed commercial explosive business shall maintain records as referenced in National Fire Protection Association (NFPA) Chapter 495, "Explosive Materials Code," as adopted by reference in rule 661—231.1(101A).

661—231.9(101A) Complaints. Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosive contractor or commercial blaster without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or blaster against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

661—231.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

231.10(1) The department may refuse to issue a contractor or blaster license sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

b. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

c. Finding that the applicant or licensee falsified information in the current or any previous license application.

d. Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A or this chapter.

f. Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of health and human services pursuant to the procedures set forth in Iowa Code chapter 252J.

g. Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

h. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the applicant, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes

conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

i. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the applicant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

j. Willful or repeated violations of the provisions of this chapter.

k. Disqualifications pursuant to Iowa Code section 272C.15.

231.10(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action by requesting a contested case hearing, in writing, within 20 days of the department's determination. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue are subject to the procedures set forth in 481—Chapter 8.

231.10(3) The department will notify the employing commercial explosive contractor licensee of the denial, suspension, or revocation of a commercial explosive blaster license.

These rules are intended to implement Iowa Code chapters 101A and 272C.

ITEM 2. Rescind and reserve **661—Chapter 235**.

ARC 8582C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rulemaking related to the electrical inspection program and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 504, "Standards for Electrical Work"; to rescind Chapter 550, "Electrical Inspection Program—Organization and Administration," and adopt a new Chapter 550, "Electrical Inspection Program"; and to rescind Chapter 551, "Electrical Inspection Program—Definitions," Chapter 552, "Electrical Inspection Program—Permits and Inspections," Chapter 553, "Civil Penalties," and Chapter 559, "Electrical Inspection Program—Utility Notifications and Responsibilities of Utilities," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 103.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 103 and Executive Order 10 (January 10, 2023).

Purpose and Summary

Iowa Code section 103.6 provides that the Electrical Examining Board will adopt rules pursuant to Iowa Code chapter 17A and those rules will be governed by the minimum standards set forth in the most current publication of the National Electrical Code (NEC) issued and adopted by the National Fire Protection Association (NFPA) and amendments to the NEC. The Board will also adopt rules establishing wiring standards that protect public safety and health and property. Those standards will apply to all electrical wiring installed pursuant to Iowa Code chapter 103. Iowa Code section 103.6 also requires that the Board establish and provide for the collection of fees for inspection and other services, with maximum fees set forth in Iowa Code chapter 103.

This rulemaking implements the aforementioned Iowa Code sections by establishing the Electrical Inspection Program, which enforces electrical installation requirements as set forth by the Electrical Examining Board. The rulemaking establishes the organization and hierarchy of the program and sets forth uniform qualifications of inspectors. The rulemaking also sets universal fees for services provided by the program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

Substantive changes to these rules include the adoption by reference of a more recent edition of NFPA's NEC—from the 2020 edition through the 2023 edition—in order to appropriately implement Iowa Code section 103.6(1)"a." The updated rulemaking also includes updating inspector qualifications to include additional certification options provided by the NFPA, International Association of Electrical Inspections (IAEI), and International Code Council. Finally, it corrects language related to the point at which failure to properly submit a request for permit and inspection subjects an individual to potential civil penalty in accordance with Iowa Code section 103.25. Other changes to these rules include nonsubstantive editorial revisions, including deleting language that is duplicative of the Iowa Code.

Nineteen members of the public attended the public hearing and/or provided written comments to the Department. A number of individuals provided comments supportive of the adoption of the 2023 National Electrical Code without amendment. Other commenters were supportive of the adoption of the 2023 NEC but with specified revisions.

A number of comments requesting revisions were centered around the adoption of articles 210.8(A), (D), and (F) regarding GFCI protections, as well as comments around article 210.52(C)(2). Regarding the proposed adoption of article 210.8(A), the rules have been revised to change references in the identified locations from "125 through 250-volt receptacles" to "125-volt, 15- and 20-ampere receptacles." Regarding the proposed adoption of article 210.8(D), the rules have been revised to specifically exclude application to electric ranges, wall-mounted ovens, counter-mounted cooking units, and clothes dryers. Regarding the proposed adoption of article 210.8(F), that article has been excluded from the adoption in its entirety.

Several public comments were received requesting that article 210.52(C)(2) be modified to allow kitchen island receptacles to be installed anywhere in the kitchen island. Unlike past versions of the NEC, the 2023 NEC no longer requires receptacles to be installed; if receptacles are installed, the NEC no longer allows receptacles to be installed below the countertop. Generally, there are three options for kitchen island receptacles:

1. Do not install receptacle(s) (if this option is chosen then a provision needs to be added so receptacle(s) could be added in the future);
2. Install receptacle(s) in a back splash, or
3. Install receptacle(s) in the countertop.

NFPAs substantiation for no longer allowing receptacles to be installed below the countertop is because of data gathered by Consumer Product Safety Commission (CPSC). CPSC reported there were 45 anecdotal reports of burns/other injuries between 1991 and 2020, as well as an estimated 9,700 burns/other injuries treated in U.S. hospital emergency departments. The date sets indicate that the injuries were caused by tipping and spilling the contents of countertop cooking appliances, many of which specifically involved children pulling on the appliance cord. Many of these incidents involved second- and third-degree burn injuries, and ten resulted in deaths. The investigations revealed that children may pull power cords or the cords may get snagged inadvertently when a person is walking by. For these safety concerns, the Board decided to not make any revisions to this section. Iowa's neighboring states—Minnesota, North Dakota, South Dakota, and Nebraska—have similarly adopted the 2023 NEC without deleting this section.

One commenter also provided feedback as to the structure of the rules related to permitting and inspections, including requesting clarification as to the process and timing for applications for permit and inspection and exceptions thereto. The proposed rules thus include a number of nonsubstantive, but clarifying, revisions that more closely align language used in the rules to statutory language and that better describe the timing and processes for applications for permit and inspection. The rules also substantively delete the option of an annual permit since the annual permit option and fee have not historically been utilized by industry and appear to introduce confusion.

The Department received questions from the public regarding the effective date of this adoption. Although an effective date will not be established until the Board formally adopts this rulemaking, the Board anticipates that rules will be adopted with an effective date of July 1, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 29, 2025. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

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

January 28, 2025 11:30 a.m. to 12 noon	6200 Park Avenue Des Moines, Iowa
January 29, 2025 11:30 a.m. to 12 noon	6200 Park Avenue Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public hearings.

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

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

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **661—Chapter 504**.

ITEM 2. Rescind 661—Chapter 550 and adopt the following **new** chapter in lieu thereof:

CHAPTER 550
ELECTRICAL INSPECTION PROGRAM

661—550.1(103) Electrical inspection program. The electrical inspection program is created within the department of inspections, appeals, and licensing and may be contacted as provided in 481—Chapter 1 and on the department's website: dial.iowa.gov. The program is under the supervision of the director, is headed by a chief electrical inspector, and enforces requirements for electrical installations adopted by the electrical examining board.

661—550.2(103) Definitions. The definitions set forth in Iowa Code sections 103.1 and 103.1A are incorporated herein by reference. The following definitions also apply:

"Emergency installation" means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or manmade disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work and may be performed prior to submission of a request for permit or request for inspection.

"Residential electrical work" means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

"Volunteer emergency service provider" means a volunteer fire fighter as defined in Iowa Code section 85.61, a volunteer emergency rescue technician as defined in Iowa Code section 147A.1 or a reserve peace officer as defined in Iowa Code section 85.61.

661—550.3(103) Installation requirements. The provisions of the National Electrical Code, 2023 edition, published by the National Fire Protection Association, are incorporated herein by reference as the requirements for electrical installations performed by persons subject to licensing and inspection pursuant to Iowa Code chapter 103 and rules promulgated thereunder, with the following amendments:

550.3(1) Delete article 210.8(A), "Dwelling Units," and insert in lieu thereof the following new section:

"210.8(A) Dwelling Units.

All 125-volt, 15- and 20-ampere receptacles installed in the following locations and supplied by single-phase branch circuits rated 150 volts or less to ground shall have ground-fault circuit-interrupter protection for personnel:

(1) Bathrooms

(2) Garages and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use

(3) Outdoors

(4) Crawl spaces – at or below grade level

(5) Basements

(6) Kitchens

(7) Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking

(8) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(9) Boathouses

(10) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(11) Laundry areas

(12) Indoor damp and wet locations."

550.3(2) Delete article 210.8(D), "Specific Appliances," and insert in lieu thereof the following new section:

"210.8(D) Specific Appliances.

GFCI protection shall be provided for the branch circuit or outlet supplying the following appliances rated 150 volts or less to ground and 60 amperes or less, single- or 3-phase:

(1) Automotive vacuum machines
(2) Drinking water coolers and bottle fill stations
(3) High-pressure spray washing machines
(4) Tire inflation machines
(5) Vending machines
(6) Sump pumps
(7) Dishwashers
(8) Microwave ovens."

550.3(3) Delete article 210.8(F), "Outdoor Outlets."

661—550.4(103) Qualifications of inspectors.

550.4(1) *State inspectors.* Electrical inspectors will be certified as commercial and residential electrical inspectors no later than one year after starting employment in any of these positions. Certification will be obtained from the International Association of Electrical Inspectors as both a certified residential electrical inspector and as a certified master electrical inspector; from the National Fire Protection Association as a certified electrical inspector; or from the International Code Council as both a residential electrical inspector (E1) and a commercial electrical inspector (E2), or as an electrical inspector (E5).

550.4(2) *Political subdivision inspectors.* A political subdivision that performs its own inspections as provided in Iowa Code section 103.24 must require certification of its inspectors. A person employed or appointed as an electrical inspector must obtain certification within one year of the appointment date. The board may act to enforce statutory compliance by the individual or by the political subdivision if a person employed or appointed as an inspector fails to obtain certification within one year of employment or appointment or fails to maintain the required certification while employed as an inspector. Certification of electrical inspectors for political subdivisions shall be obtained as set forth in subrule 550.4(1), except that a political subdivision has the authority to limit an inspector's duties to only residential inspections or only commercial inspections provided the inspector assigned to those duties obtains and maintains the proper certification to conduct the inspections assigned.

661—550.5(103) Required permits and inspections. Permits and inspections are required for electrical installations as set forth in Iowa Code section 103.23, with the following exceptions:

550.5(1) Exception 1: Installations in political subdivisions that perform electrical inspections and that are inspected by the political subdivision are not required to be inspected by the state electrical inspection program. Any installation that is subject to inspection and is on property owned by the state or an agency of the state shall be inspected by the state electrical inspection program. An electrical installation on a farm that is located outside the corporate limits of any municipal corporation (city) shall not be inspected by a political subdivision.

550.5(2) Exception 2: Neither a permit nor an inspection is required for an electrical installation that meets all of the following criteria:

a. The installation is legally performed by a master electrician, journeyman electrician, or apprentice electrician working under the direct supervision of a master or journeyman electrician.

b. The installation to be performed does not in any way involve work within an existing or new switchboard or panel board.

c. The installation to be performed does not involve over-current protection of more than 30 amperes.

d. The installation to be performed does not involve any electrical-line-to-ground circuit of more than 277 volts, single phase.

550.5(3) Exception 3: Neither a permit nor an inspection is required for any electrical installation on a farm or a farm building if the farm building is not regularly open to the public as a place of business for the retail sale of goods, wares, services, or merchandise. This exception does not apply to a residential installation located on a farm.

NOTE: Iowa Code sections 103.22 and 103.30(1) provide separately for the inapplicability of Iowa Code chapter 103 to particular persons and circumstances.

661—550.6(103) Requests for permit and inspection.

550.6(1) Prior to commencement of any electrical installation requiring an inspection, the licensee or property owner making such installation shall notify the electrical inspection program of the installation by applying for a permit unless the installation is an emergency installation. For emergency installations that would otherwise require a request for permit and inspection under rule 661—550.6(103), the request shall be made as soon as practicable and no later than 72 hours after the installation is completed. A permit may be obtained as follows:

a. By completing and electronically submitting the online application and inspection fees through the department's website.

b. By completing the Electrical Permit Manual Application and mailing it and the inspection fees to the department at least seven days prior to the commencement of the installation. The Electrical Permit Manual Application may be obtained through the department's website or upon request to the department.

550.6(2) Upon completion of the electrical installation, the licensee or property owner shall notify the electrical inspection program to schedule an inspection in the same manner as described in paragraph 550.6(1)*"a"* or *"b."*

661—550.7(103) Fees.

550.7(1) Fees are adopted in the amounts set forth in Iowa Code section 103.32.

550.7(2) Inspection fees will normally be paid at the time a permit is obtained. However, additional fees may apply if a permit is modified by an inspector, based upon inspection of the electrical installation. The person who obtained the original permit will be notified immediately by the inspector of the modification and of the amount of any additional fees due. Any additional fees will be due at the time the person responsible for payment receives notification of modification of the permit.

a. If an additional fee or portion of the fee is more than 60 days past due, the board or its delegee will notify the person responsible for payment of the fee of the necessity of promptly making the payment.

b. If an additional fee or portion of the fee is more than 120 days past due, the board or its delegee may suspend the ability of the person responsible for the payment to obtain inspection permits. The person's ability to obtain permits will be restored when payment of the past due amount has been received. Suspension of a person's ability to obtain permits may be appealed to the board as provided in rule 661—503.4(103).

c. If payment of a fee or portion of a fee is more than 180 days past due, the board may refer the debt for collection pursuant to Iowa Code chapter 272D.

550.7(3) When an installation has been commenced without completing the online application or Electrical Permit Manual Application as described in subrule 550.6(1), twice the fees that would have been applicable if a timely request had been filed shall be paid.

661—550.8(103) Scheduling of inspections. Pursuant to Iowa Code section 103.31, electrical inspections will be scheduled within three business days of the receipt of the request. If an inspection for which a timely request has been made is not completed within three business days of the completion of the installation, a licensee who completed the installation may energize any new circuits included in the installation, although the installation remains subject to condemnation and disconnection if found to be out of compliance with any applicable provision of rule 661—550.3(103) when inspected.

661—550.9(103) Report of inspection. After the completion of an inspection, the inspector will issue an inspection report indicating the results of the inspection and provide any necessary notice to the utility providing electrical service pursuant to Iowa Code section 103.28. The results of the inspection may be any of the following:

550.9(1) *Approval.* If the inspector finds that the installation is in compliance with applicable requirements, the inspector will issue a report indicating that the installation is approved.

550.9(2) *Order of correction.* If the inspector finds that the installation is not in compliance with applicable requirements but does not present an imminent threat to the health or safety of any person, the inspector will issue an order of correction, prescribing a time frame during which corrective action shall be taken by the licensee responsible for the installation to bring the installation fully into compliance.

550.9(3) *Order of disconnection.* If the inspector finds that the installation is not in compliance with applicable requirements and presents an imminent threat to the health or safety of any person, the inspector will issue an order of disconnection, requiring that the installation be disconnected until corrective action has brought the installation into full compliance with applicable requirements. The installation shall not be reconnected until the corrected installation has been approved by an inspector as in compliance with all applicable requirements. The inspector issuing an order of disconnection will notify the utility providing electrical service to the location of the order and will notify the utility when the order of disconnection is no longer effective.

661—550.10(103) Appeals. An order of correction or an order of disconnection may be appealed. However, an order of disconnection shall be complied with immediately and the installation not reconnected pending the outcome of the appeal.

550.10(1) A person who has received an order of correction or disconnection may request an informal appeal to the chief electrical inspector within 14 days of receiving the order by contacting the electrical inspection section by telephone, email or mail. The informal appeal may be heard in any manner agreed to by the person filing the appeal and the chief electrical inspector. If the order is upheld by the chief electrical inspector, the person receiving the order may file a formal appeal pursuant to 661—subrule 552.5(2).

550.10(2) A person who has received an order of correction or disconnection may file a request for a formal appeal to the board within 30 days of receiving the order or, if the person has filed a request for an informal appeal, within 30 days of having been notified that the chief electrical inspector has upheld the order. Formal appeals will be processed as provided in 481—Chapter 506, except that "electrical examining board" is substituted therein as appropriate.

661—550.11(103) Civil penalty. Any person who commences an electrical installation subject to inspection pursuant to Iowa Code chapter 103 and who fails to file a Request for Permit and Inspection form within 14 days of notification as prescribed by Iowa Code section 103.25 may be subject to a civil penalty. The amount of the civil penalty will not exceed $750 as determined by the board. Notice will be provided by certified mail to any person on whom a civil penalty is imposed.

661—550.12(103) Civil penalty—appeal. Any person on whom a civil penalty has been imposed may appeal the imposition of the civil penalty to the board within 14 days of the date on which notice of the civil penalty was mailed by notifying the board in writing that the person wishes to appeal the civil penalty. An appeal of a civil penalty is to be subject to the provisions of 481—Chapter 506, which apply to contested cases, except that "electrical examining board" is substituted therein as appropriate.

These rules are intended to implement Iowa Code chapter 103.

ITEM 3. Rescind and reserve **661—Chapter 551**.

ITEM 4. Rescind and reserve **661—Chapter 552**.

ITEM 5. Rescind and reserve **661—Chapter 553**.

ITEM 6. Rescind and reserve **661—Chapter 559**.

ARC 8661C

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Notice of Intended Action

Proposing rulemaking related to description of organization and procedure for rulemaking and providing an opportunity for public comment

The Iowa Telecommunications and Technology Commission (ITTC) hereby proposes to amend Chapter 1, "Description of Organization"; to rescind Chapter 18, "Procedure for Rule Making"; and to adopt new Chapter 18, "Procedure for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8D.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8D.3 and 8D.4.

Purpose and Summary

This proposed rulemaking includes revisions to administrative rules based on the requirements of 2024 Iowa Acts, Senate File 2385, which moves rulemaking authority from the ITTC to the Iowa Communications Network (ICN) Executive Director. This proposed rulemaking implements this change and makes corrective amendments regarding the ICN's organizational structure and description.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 21, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the ICN-ITTC for a waiver of the discretionary provisions, if any, pursuant to 751—Chapter 16.

Public Comment

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

Lori Larsen
Iowa Communications Network
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.725.4713
Email: lori.larsen@icn.state.ia.us or lori.larsen@iowa.gov

Public Hearing

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

January 16, 2025 2 to 3 p.m.	ICN Thompson Conference Room Grimes State Office Building Des Moines, Iowa 50319

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 hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the ICN Executive Director 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 rule 751—1.2(17A,8D) as follows:

751—1.2(17A,8D) Organization. The commission's structure consists of five commissioners and the state auditor and the chief information officer as ~~an~~ ex officio ~~member~~ members of the commission. The commission has the sole authority to manage, develop, operate and ensure compatibility of the state communications network. The network is supervised by the commission and operated by the executive director of the network or the ~~commission's~~ executive director's designee. The ~~commission~~ executive director has ~~rule-making~~ rulemaking authority.

ITEM 2. Rescind rule 751—1.5(17A,8D) and adopt the following **new** rule in lieu thereof:

751—1.5(17A,8D) Administrative elements.

1.5(1) *Executive director.* The executive director or the executive director's designee administers the programs and the services of the commission in compliance with the Iowa Code and the rules adopted by the executive director.

1.5(2) *Administrative elements.* In order to carry out the functions of the commission, the agency consists of the divisions as established by the executive director and bureaus within each division as deemed necessary to fulfill the functions of the agency. Additionally, the executive director may from

time to time reorganize the agency in order to more efficiently and effectively carry out the functions of the commission. The major functions of the agency include but are not limited to:

a. Networking and engineering, including network operations, engineering, and project management. The bureau is responsible for all operational aspects of the fiberoptic network.

b. Facilities, including outside plant and technical assistance.

c. Financial management, including budgeting, accounts receivable and payable, and internal auditing.

d. Procurement and contracting.

e. Business services, including customer sales and customer relations.

ITEM 3. Amend subrule 1.6(1) as follows:

1.6(1) *Main office.* The main office is located in the Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319. The telephone number is ~~(515)725-4692~~ 515.725.4692. The toll-free number is ~~1-877-426-4692~~ 1.877.426.4692. The fax number is ~~(515)725-4727~~ 515.725.4727. The ~~E-mail~~ email address is ICN.info@iowa.gov. The home page Internet address ~~on the World Wide Web~~ is ~~http://www.icn.state.ia.us~~ icn.iowa.gov.

ITEM 4. Amend subrule 1.7(2) as follows:

1.7(2) *Emergency incident reports.* The 24-hour emergency telephone number for reporting cable cuts, system failures or other incidents is ~~1-800-572-3940,~~ 1.800.572.3940 or ~~(515)323-4400~~ 515.725.4400.

ITEM 5. Amend **751—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3(1)*"a,"* 8D.1, 8D.3(3) *"b,"* 8D.4, 8D.5 and 8D.6.

ITEM 6. Rescind 751—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18
PROCEDURE FOR RULEMAKING

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

751—18.3(17A) Public rulemaking docket.

18.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)", insert "executive director".

751—18.4(17A) Notice of proposed rulemaking.

18.4(3) *Copies of notices.* In lieu of the words "(specify time period)", insert "six months".

751—18.5(17A) Public participation.

18.5(1) *Written comments.* In lieu of the words "(identify office and address)", insert "ICN Executive Director, 400 East 14th Street, Des Moines, Iowa 50319-9000".

18.5(5) *Accessibility.* In lieu of the words "(designate office and telephone number)", insert "ICN executive director at 515.725.4692".

751—18.6(17A) Regulatory analysis.

18.6(2) *Mailing list.* In lieu of the words "(designate office)", insert "ICN executive director".

751—18.10(17A) Exemptions from public rulemaking procedures.

18.10(2) This subrule is not adopted.

751—18.11(17A) Concise statement of reasons.

18.11(1) *General.* In lieu of the words "(specify the office and address)", insert "ICN Executive Director, 400 East 14th Street, Des Moines, Iowa 50319-9000".

751—18.13(17A) Agency rulemaking record.

18.13(2) *Contents.* In lieu of the words "(agency head)", insert "executive director".

These rules are intended to implement Iowa Code chapters 8D and 17A.

ARC 8591C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to interest on retained funds and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 27, "Interest on Retained Funds," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 573.12.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 573.12.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 27 in compliance with Executive Order 10. Proposed Chapter 27 implements Iowa Code section 573.12 regarding interest payments on retained funds.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received no comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

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

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 14, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 351 420 023
January 15, 2025 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 315 685 313

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 impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27
INTEREST ON RETAINED FUNDS

761—27.1(573) Interest on retained funds.

27.1(1) *Scope.* This rule implements Iowa Code section 573.12 regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

27.1(2) *General requirements.*

a. Interest is paid on retained funds of a contract only if the accrued interest on those funds is at least $25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds.

b. Interest is not to be paid on retained funds of a contract declared in default.

27.1(3) *Procedures.*

a. Interest begins to accrue on retained funds on the date the first progress payment is issued. An interest rate is established on this date in accordance with Iowa Code section 12C.6. This interest rate applies for the duration of the contract.

b. In general, interest continues to accrue on retained funds until the date the final payment is issued.

(1) Final payment is payment of retained funds less assessed liquidated damages, if applicable.

(2) The final payment and the interest payment are paid by separate warrants. The interest payment is issued within two weeks after issuance of final payment.

c. Notwithstanding paragraph 27.1(3)*"b,"* interest is to cease to accrue on retained funds:

(1) Upon the expiration of 90 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment as specified in the contract provisions.

(2) Upon payment of retained funds via a retention release voucher. A retention release voucher releases the retained funds and the interest accrued on those funds less assessed liquidated damages, twice the amount of claims on file, and the amount of possible overpayments or adjustments to contract items and change orders. A retention release voucher may be paid at any time after 30 days have expired following completion and final acceptance of the project if the contractor has submitted the necessary documentation.

(3) Upon the court's obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed if the interest has not been paid to the contractor.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 573.12.

ARC 8592C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to recovery of damages to highways or highway structures and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 40, "Recovery of Damages to Highways or Highway Structures," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 321.475.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.475.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 40 in compliance with Executive Order 10. Proposed Chapter 40 explains the process the Department uses to recover damages to highway or highway structures because of illegal and/or overweight operations.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received no comments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

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

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 14, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 771 905 536
January 15, 2025 11:30 a.m. to 12 noon	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 296 427 867

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 40 and adopt the following **new** chapter in lieu thereof:

CHAPTER 40
RECOVERY OF DAMAGES TO HIGHWAYS OR HIGHWAY STRUCTURES

761—40.1(321) General.

40.1(1) This chapter is limited to recovery of damages to highways or highway structures in accordance with Iowa Code section 321.475, Iowa Code chapter 321E and 761—Chapter 511.

40.1(2) Information about this chapter may be obtained from the Finance Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or the department's website at www.iowadot.gov/claimsmanagement.

761—40.2(321) Definitions.

"Highway" means any segment of the primary road system or a municipal extension and includes but is not limited to the pavement surface, shoulder, median, earth fill, ditches and vegetation.

"Highway structure" means all the appurtenances of a highway, including but not limited to guardrails, culverts, bridges, signs, light poles, attenuators, traffic control devices, or buildings at rest areas, information sites, commercial vehicle inspection and enforcement sites, or other appurtenances adjacent to the highway.

761—40.3(321) Recovery of damages. The department:

40.3(1) Will investigate to determine the person(s) responsible for the damages.

40.3(2) Will summarize the repair or replacement costs and submit the claim to the person(s) responsible for the damage.

40.3(3) May seek recovery through civil court action.

40.3(4) Will deposit the collections for recovery of damages in the primary road fund.

These rules are intended to implement Iowa Code section 321.475.

ARC 8594C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to utility accommodation and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 115, "Utility Accommodation," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 306A.3(2) and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 306A and 318 and sections 306.3, 306.47, 314.20, 320.4 through 320.8 and 321.1.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 115 in compliance with Executive Order 10. Proposed Chapter 115 establishes standards and conditions for the placement of utility facilities within the public rights-of-way on primary and interstate roads allowing the Department to safely and efficiently manage the public rights-of-way in terms of utility installations in a manner that minimizes disruptions to traffic and public services; facilitates better coordination between utility companies;

minimizes impacts to utility facilities before and during highway construction; and protects the integrity and environmental and visual qualities of the highway facilities.

The proposed repromulgated chapter omits unnecessarily restrictive language and redundancies and retains the essential elements needed for delivering a successful program to the traveling public and the participating utility companies.

There are minor and significant changes included in the proposed repromulgated chapter as follows.

Minor changes include:

1. Updating references to specific sections of the Iowa Code, including Iowa Code section 318.5 (noncompliance and removal of obstructions).
2. Updating references to specific Department divisions and bureaus.
3. Adding and updating links to web pages.
4. Consolidating duplicate rules related to encasement requirements and clear zone requirements.

Significant changes include:

1. Adding a requirement for performance bonds for utility permit requests for installations related to Department highway projects.
2. Amending a requirement to have utilities submit as-built plans to the Department in an electronic format that conforms to Department standards.
3. Adding a requirement to provide a ten-day notice to the Department's 511 of any lane restrictions or traffic closures.
4. Adding language to address unacceptable work and to require rework (or removal).
5. Amending a requirement to have utilities notify a district representative upon completion of work. This will allow the district to inspect the work and notify a utility if any work was noncompliant and to seek a remedy within a specified time frame established by the Department.
6. Amending a requirement to allow underground electric installations longitudinally with interstate and freeway rights-of-way.
7. Adding that if the Department determines that an aboveground installation longitudinally with interstate and freeway rights-of-way is necessary to advance the state's priorities, can be installed safely with minimal impact on the traveling public, can be safely accommodated within an existing right-of-way, is along a roadway that is not anticipated to require an additional right-of-way for future improvements in the foreseeable future, and extends for a relatively short distance, the Department may permit installation with proper justification.
8. Improving utility investigation to identify utilities within the project footprints that will allow the Department to analyze design conflicts with existing utility facilities and to make better design decisions that avoid or minimize impacts and reduce construction delays and costs.
9. Requiring utility companies to provide the location of their facilities within the project footprints. This will allow the Department and utility companies to collaborate on highway design to avoid conflicting with utility facilities when feasible, minimize the remaining impacts to existing facilities, and then work together to resolve and mitigate those facilities that cannot be avoided.
10. Requiring utility companies to make final review of design conflicts with utility facilities earlier in the project timeline and provide one relocation work plan instead of two, which should streamline the work plan review and approval process.
11. Updating the noncompliance rule to allow the Department to determine a noncomplying utility facility to be an obstruction in accordance with Iowa Code section 318.5.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received written and oral comments from 11 constituents that expressed support for the proposed chapter. The comments are summarized as follows:

1. Associated General Contractors of Iowa supports the increase in bonding amounts and recommended a greater increase to the bond amounts. The Department recommends incremental

increases to the bonding amounts that will not create undue burden on utility companies. The Department recommends no change to the proposed rule based on this comment.

2. City of Decorah, Iowa, supports the addition of as-built plan submission in an electronic format in accordance with Department specification and recommendation, including Global Positioning System (GPS) information collected by the contractor during installation. The Department's specification includes detail on GPS requirements and data standards. The Department recommends no change to the proposed rule based on this comment.

3. Great Plains Institute (NextGen Highways); Iowa Environmental Council; Linn Clean Energy District; Center for Rural Affairs; Clean Energy Districts of Iowa; Iowa Business for Clean Energy; and National Audubon Society all support the Department's intent to allow aboveground electric transmission in freeway rights-of-way in limited circumstances. Comments indicated the language may be unnecessarily restrictive and needs clarification as to how the Department will determine whether proposed installations are necessary to advance the state's priorities and whether the proposed installation is for a "relatively short distance." Additional comments indicated the occupancy fees should be cost-competitive with the costs for transmission developers to develop on private land. First, the Department desires to assure that the Department is being reasonably flexible to support the state's economic development growth and considering alternative uses of the rights-of-way where it is safe. It is anticipated that the applicant requesting to install overhead electric transmission facilities within the freeway rights-of-way would submit a Certificate of Public Convenience and Necessity (CPCN) to the Iowa Utilities Commission (IUC) and a Constructability Report (CR) to the Department. If the IUC issues a CPCN to the utility, then the Department will review the CR and the rights-of-way available in the vicinity of the intended installation; the Department's long-range plans for the segment(s) of road involved; and the safety and clear zone requirements in the respective areas to determine if the installation complies with utility accommodation rules, including adequate right-of-way width to accommodate the installation of the proposed facility. The applications will be reviewed by the Department on a case-by-case basis for the specific locations to determine if the proposed installation and the length of the installation can be supported based on the above criteria. The Department recommends leaving the proposed language the same as in the current proposed rule. Second, the development of the fee structure for longitudinal occupancy in freeway rights-of-way in Iowa goes beyond the land value and includes the cost to the state to manage and coordinate the roadside plantings as well as the subsurface infrastructure within the freeway rights-of-way. The Iowa Laws of the Seventy-Second G.A., 1988 session, established the requirement for the fee collection, which stated the fees were to provide extended payment for continuous funding for the Living Roadway Trust Fund. Therefore, the recurring annual fee was established for installations within freeway rights-of-way to provide that continuous funding. This requirement is currently outlined in Iowa Code section 321.14. The Department recommends no change to fee structure set out in the rule.

4. Scenic America supports the proposed rules and the Department's efforts to protect and preserve the scenic character of the nation's highways. Comments indicated that Scenic America is in support of undergrounding of electrical wires to promote scenic beauty and provide equitable access to clean, renewable energy and indicated the proposed rules could be strengthened by including additional language regarding undergrounding and co-location of high-voltage, direct-current transmission lines. The Department notes that the burden of necessity to place overhead transmission lines within the freeway rights-of-way will be placed on the applicant with Departmental review and approval on a case-by-case basis. The Department recommends no change to the proposed rules.

5. Iowa Farm Bureau Federation supports the proposed rules to accommodate utility facilities within primary highway rights-of-way. Comments relate to the road rights-of-way where the state does not have fee simple ownership interest in that the installation could potentially impact the fee simple landowner through lack of compensation and the Department should consider a notification and review process with the fee simple owner. Most of the state rights-of-way are held in fee simple interest. With the acquisition of permanent easement, the Department acquires every interest in the property with the exception of the underlying fee simple interest by paying 100 percent of the actual value of the property at the time of acquisition. This effectively allows the Department to abandon its interest in a property in

the future if it is determined to be in the best interest of the State of Iowa to do so. For some future highway projects, the Department may acquire that last fee simple interest in a property if there is an impetus to do so. In permitting a utility to occupy highway rights-of-way where the property was acquired by permanent easement, the Department has already acquired the right to do so within the permanent easement. The Department recommends no change to the proposed rules regarding this comment.

Fiscal Impact

The fiscal impact cannot be determined. The proposed rules extend the longitudinal use of interstate rights-of-way to electric transmission facilities, including the annual occupancy fee for such facilities. Allowing high-voltage electric facilities to occupy interstate rights-of-way supports the National Electric Vehicle Infrastructure deployment. There is a fee associated with longitudinal occupancy that is based on the length of installation (per mile) and the number of cables and increases 3 percent per year for as long as the facility is in place. The fees collected from longitudinal occupancy of the interstate rights-of-way by electric transmission facilities will increase revenues for the Living Roadway Trust Fund. This could increase the revenues generated from the fees and charges associated with electric vehicles and charging, which are deposited in the Road Use Tax Fund.

It is not possible to determine whether electric transmission facility owners will request to occupy interstate rights-of-way. Since the Department does not know whether utility companies will request to occupy interstate rights-of-way, the length of such installations, or the number of cables, the Department cannot estimate the associated fee nor the fiscal impact.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

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

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 16, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 299 102 354
January 16, 2025 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 270 366 478

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 115 and adopt the following **new** chapter in lieu thereof:

CHAPTER 115
UTILITY ACCOMMODATION

761—115.1(306A,314,320) General.

115.1(1) *Purpose.* This chapter covers the requirements needed for placement, adjustment and maintenance of utility facilities in, on, above or below the rights-of-way of primary roads to ensure the safety of the road user and the integrity of the road.

115.1(2) *Contact information.* Information regarding this chapter may be obtained from the department's website at: www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination; any of the department's six district offices; or the Transportation Development Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

115.1(3) *Considerations.* If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation documenting the design decision in the permit or the road project file, as applicable, and addressing:

a. Safety of motorists, pedestrians, construction workers and other road users.

b. Integrity of the road.

c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

d. Topography and geometric limitations and constraints affecting typical engineering standards.

e. Environmental protections, limitations and constraints of surrounding ecosystem.

115.1(4) *Permit approval process.*

a. To apply for a permit, the applicant must submit a request in the form and manner prescribed by the department. The department will do one of the following in response to a request for a utility accommodation on the primary road system: approve the request for a permit, approve the request for a permit with conditions, or deny the request for a permit. The department will notify the applicant of the determination in writing.

b. If the utility facility will impact a road or street under the jurisdiction of a local public agency, the request must be approved by the county. If the utility facility is within corporate limits of a city, the request must be approved by the city. The applicant is responsible for obtaining local jurisdiction approvals. If the utility facility will cross or impact an interstate road, the request must be approved by the FHWA. The department is responsible for obtaining FHWA approval.

c. Upon receipt of a denial notification or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director pursuant to subrule 115.1(5).

d. For the purposes of this chapter, required notifications may be made by electronic means.

115.1(5) *Waivers.* The director may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition is to contain the information as required in 761—subrule 11.5(2) and be submitted to the rules administrator either by mail to Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

115.1(6) *Additional requirement for waivers involving interstate roads.* The director will not waive these rules in utility accommodation and adjustment situations involving the interstate road system, including its ramps, without the approval of the FHWA.

761—115.2(306,306A,321) Definitions.

"511" means a traveler information system that provides real-time updates about weather-related road conditions, road work, commercial vehicle restrictions, road closures and other events that impact traffic via the phone or Internet.

"Abandoned" or *"abandonment"* means the decision by a utility owner to no longer use its utility facility.

"Adjustment" means a physical change to an existing utility facility, including improvement, rearrangement, reinstallation, protection, relocation or removal of the utility facility.

"Agreement" means a contract between the department and a utility owner.

"Applicant" means the utility owner or the utility owner's designated representative who submits a request for a utility permit on the primary road system.

"Appurtenance" means a utility facility-related feature, such as a vent, drain, utility access or marker.

"Attachment agreement" means a contract between the owner of a utility pole or structure and another utility owner for the joint use or sharing of poles or structures.

"Backfill" means placement of suitable material and compaction of the material as specified in these rules.

"Best management practices" means the industry's best-known method, technique or proven process used to achieve an end goal or standard.

"Breakaway" means designed to shatter, bend easily or separate from a solid foundation.

"Cable" means an insulated conductor or a combination of insulated conductors.

"Carrier" means a pipe directly enclosing a transmitted fluid (liquid or gas) or slurry. "Carrier" may also mean an electric or communication cable, wire or line.

"Casing" means an oversize load-bearing pipe, conduit, duct, or structure through which a carrier or cable is inserted.

"Cell" means a conduit.

"Clear zone" means a roadside area that is free of obstacles where an out-of-control vehicle can traverse safely, starting at the edge of the traveled way.

"Communication line" or *"communication cable"* means a cable used for the transmission of data, voice, images, television, alarm systems or traffic control.

"Conduit" means an enclosed tubular runway for protecting wires or cables. A conduit may also be referred to as a "cell" or "duct."

"Cover" means depth from the grade of a roadway or ditch to the top of an underground utility facility.

"Department specifications" means departmental standard specifications that can be found on the department's website at www.iowadot.gov/specifications.

"Designated representative" means a person with authority to make decisions on behalf of the utility owner, including employees of the utility company or consultants and utility contractors performing specific work on behalf of the utility owner.

"Director" means the director of transportation or the director's designee.

"District representative" means a department employee who processes utility accommodation requests in an assigned geographical area.

"Duct" means a conduit.

"Emergency" means an unplanned situation that presents a danger to the life, safety or welfare of motorists, persons working within the rights-of-way or the general public and that requires immediate attention. The emergency may be the result of storm damage and may involve disruption of utility service to customers. Work on a utility facility due to an emergency is unplanned work and may be necessary at any time of the day or night. The emergency work operation usually involves a small crew and a work vehicle for a short period of time.

"Encasement" means placing a casing around a utility facility.

"FHWA" means the Federal Highway Administration.

"Flowline" means the lowest point in a pipe, culvert, ditch, stream bed, or other structure that conveys water.

"Foreslope" means the downward sloping surface of an embankment from the outer edge of the roadway shoulder away from the traveled way to the roadway ditch bottom.

"Freeway" means a fully controlled access primary road. The rights of ingress and egress from abutting properties have been legally eliminated by the department. Permanent access to the primary road is allowed only at interchange locations. A freeway is generally five or more miles in length.

"Generally accepted industry standards" means a set of criteria within an industry relating to the standard functioning and carrying out of operations in the industry's respective fields of production.

"Interchange" means a system that provides for the movement of traffic between intersecting roadways via one or more grade separations.

"Maintenance," as used in conjunction with a utility facility, means any repair or replacement of the utility facility that is not an adjustment and that does not increase the capacity of the original installation. The term "maintenance," when used in conjunction with a road, means repair or other operational activities performed by the department within the primary road rights-of-way to preserve the function of the road and its structures.

"Median" means that portion of a divided road separating traffic moving in opposite directions.

"Multiduct" means a system comprised of two or more conduits combined in a joined pathway.

"MUTCD" means the Manual on Uniform Traffic Control Devices as adopted in 761—Chapter 130.

"Nonfreeway primary road" means a primary road that is not a freeway.

"Occupy the primary road rights-of-way" means located or to be located in, on, above or below the primary road rights-of-way. The term includes attachments to primary road structures.

"Out-of-service" means a utility facility that has been removed from service and is not in use.

"Pavement" means that portion of a roadway used for the movement of vehicles, excluding paved and unpaved shoulders.

"Permit" means a utility permit issued by the department. The term "permit" includes all attachments to the permit.

"Pipe" means a tubular product used to transport solids, liquids or gases.

"Pipeline" means a carrier system used to transport liquids, gases, or slurries.

"Primary road" means the same as defined in Iowa Code section 306.3(6).

"Reimbursement agreement" means a contract between a utility owner and the department for reimbursement of utility facility relocation from private easement due to proposed primary road construction.

"Rights-of-way" means the same as "public road right-of-way" as defined in Iowa Code section 306.3(7).

"Road" or *"street"* means the same as defined in Iowa Code section 306.3(8).

"Roadway" means the same as defined in Iowa Code section 321.1(65).

"Rural-type roadway" means a roadway that does not have a curb and gutter section.

"Service connection" means a water, gas, power, sanitary sewer, storm sewer line or communications cable that extends from the main or primary utility facility into an adjacent property and that is used to serve the property regardless of ownership.

"Shoulder" means that portion of a roadway contiguous to the traveled way for the accommodation of disabled vehicles, for emergency use and for the lateral support of the pavement base and paved and unpaved surface courses.

"Toe of foreslope" means the intersection of the foreslope and the natural ground or ditch bottom.

"Traveled way" means that portion of a roadway used for the movement of vehicles, excluding shoulders and auxiliary lanes.

"Trenched" means installed in a narrow open excavation.

"Trenchless" means installed without breaking the ground or the pavement surface, such as by jacking, boring, tunneling, directional drilling or mechanical compaction.

"Urban-type roadway" means a roadway that has a curb and gutter section.

"Utility" means the same as defined in Iowa Code section 306A.13, and for the purposes of this chapter, the term "utility" includes traffic signal systems, street and intersection lighting systems and a communication line or communication cable.

"Utility access" means an opening in an underground utility system through which workers or others may enter for the purpose of making installations, inspections, removals, repairs, connections or tests.

"Utility conflict list" means a document that identifies the relevant information about the utility facilities identified within the primary road project footprint. The utility conflict list, also known as utility conflict matrix, serves as a tool to track the status of the utility facilities in relation to the road design, including but not limited to no conflict, potential conflict, utility owner, utility type, size, location, assessment, relocation required, actions, and resolutions.

"Utility facility" means any pole, pipe, pipeline, pipeline company facility, sewer line, drainage tile, conduit, cable, aqueduct or other utility-related structure or appurtenance.

"Utility owner" means the owner of a utility facility.

"Vent" means an appurtenance used to ventilate or to discharge gaseous contaminants from casings.

"Waterway" means a river, stream, creek, brook, drainage ditch or other perennially flowing body of water.

761—115.3(306A,318,320) General provisions.

115.3(1) *Permit required.* A permit is required to place utility facilities in, on, above or below the primary road rights-of-way to attach utility facilities to a primary road structure or to adjust existing utility facilities occupying the rights-of-way.

115.3(2) *Future adjustment.*

a. In the event any future maintenance or construction of the primary road requires an adjustment of the utility facility, the department will not reimburse the utility owner for adjustment costs incurred unless otherwise noted on the permit.

b. Should adjustment of the utility facility be required, the department makes no assurance nor assumes any liability to the utility owner that the utility facility will again be allowed to occupy the primary road rights-of-way.

115.3(3) *Compliance with requirements.* It is the responsibility of the utility owner to ensure that the utility owner's utility facility complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards at the time of installation.

115.3(4) *Performance bond.* The department may require a performance bond for utility work within the primary road rights-of-way under the following circumstances: the work is being done to adjust or relocate the utility facility to accommodate a planned primary road project; the installation is unusual; abnormal site conditions exist, such as but not limited to unstable soil or unique vegetation; or the utility owner has a history of performance problems. A performance bond is required for longitudinal freeway occupancy; more information contained in subrule 115.15(9).

a. If a performance bond is required, the utility owner shall file the bond with the department prior to commencing work within the rights-of-way in the minimum amount of $10,000 per permit. Depending on the type and extent of the utility facility installed, the department may require a higher performance bond amount. The performance bond shall be in force for the duration of the permit and through completion of the primary road project construction, when applicable. The department will

release the performance bond after all permit requirements have been accomplished by the utility owner. The department shall have the right to file a claim against the performance bond for two years after the performance bond has been released.

b. An annual performance bond in the amount of $100,000 for statewide activities in lieu of an individual performance bond for each permit is permissible and shall be kept in force for as long as the utility owner's utility facilities occupy the primary road rights-of-way anywhere within the state of Iowa.

c. When required, a performance bond shall guarantee prompt relocation for primary road project construction, restoration of any damage that is the result of the utility facility's occupancy of the primary road rights-of-way, and correction of any installation that is not in accordance with the issued permit on location or method of installation.

115.3(5) *Execution of work.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner satisfactory to the department.

115.3(6) *Disturbance of other contractors.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner that minimizes disturbance to any other contractor working within the rights-of-way. It is the responsibility of the utility owner to coordinate work with other contractors.

115.3(7) *No adverse effect on primary road.* A utility facility must not adversely affect the safety, design, construction, operation, maintenance or stability of the present use or future expansion of a primary road.

115.3(8) *Safety, health and sanitation.* Construction and maintenance of a utility facility shall be accomplished in a manner that minimizes disruption of primary road traffic and other hazards to the road user. The utility owner is responsible to comply with the MUTCD and all applicable federal, state and local statutes, ordinances and regulations governing safety, health and sanitation. The utility owner is to furnish such additional safeguards, safety devices and protective equipment and take actions to protect the life and health of the public.

115.3(9) *Parking or storage in clear zone or median.*

a. Unattended vehicles, equipment and materials shall not be parked or stored within the shoulder, median or clear zone and should be located as close to the right-of-way line as possible.

b. When in use, vehicles are to be oriented with the direction of traffic.

c. Exceptions to parking or storage requirements may be authorized by the district representative on a case-by-case basis.

115.3(10) *Protection of landscaped or planted areas.* Prior to permit approval, specific authorization is to be obtained from the district representative for mowing, trimming trees and shrubs, and for spraying within the rights-of-way. Landscaped and planted areas are to be avoided as much as practical. A landscaped or planted area that is disturbed is to be restored as nearly as practical to its original condition.

115.3(11) *Noncompliance.* The department may take any or all of the following actions for noncompliance with any provision of this chapter or any term of a permit:

a. Halt utility construction or maintenance activities within the rights-of-way.

b. Withhold an adjustment reimbursement until compliance is ensured.

c. Revoke the permit.

d. Determine a utility facility to be an obstruction and remove the noncomplying utility facility, restore the area to its previous condition, and assess the removal and restoration costs to the utility owner in accordance with Iowa Code section 318.5.

e. Place all pending and future permits on hold until the issue is resolved.

115.3(12) *Identification signs and markers.* Utility facilities within primary road rights-of-way shall be properly marked in accordance with the following:

a. Identification signs are to be installed and maintained by the utility owner.

b. The signs must identify the utility owner, telephone number to contact in case of an emergency, and the type of buried utility.

c. Identification signs are to be composed of highly visible ultraviolet-resistant material.

d. Each sign is to be no larger than 200 square inches.

e. The mounting height is to be 5 feet to the bottom of the sign.

f. Signs are to be placed within 12 inches of the right-of-way line along the entire occupancy route.

g. The interval between signs is not to exceed one-quarter mile in rural areas and 500 feet in urban areas or as designated by the district representative.

h. Utility facility crossings must be properly marked on each side of the road.

i. If the utility facility is removed or relocated, the utility owner is to remove or relocate the corresponding identification signs and markers.

j. If the utility facility is abandoned in place, the utility owner is to promptly notify the department as set out in subrule 115.18(2).

115.3(13) *Insufficient capacity of rights-of-way.* The department may deny issuance of a permit if it determines there is insufficient room for additional utility facilities within the rights-of-way.

761—115.4(306A,318) General design provisions.

115.4(1) *Design.* The design plan for a utility facility shall:

a. Be prepared by a person knowledgeable with this chapter, road design, and work zone traffic control.

b. Include the measures to be taken to preserve the surrounding environment, safe and free flow of traffic, structural integrity of the road and road structures, ease of road maintenance, appearance of the road and integrity of the utility facility to the extent applicable.

c. Include the location of each utility facility in the proposed run line with footage off centerline or right-of-way line to ensure the placement of the proposed utility facility can be accommodated.

115.4(2) *Number of crossings.* The number of utility facilities crossing the primary road rights-of-way shall be kept to a minimum. The department may require distribution facilities to be installed on each side of the road to minimize the number of crossings and service connections. In individual cases, the department may require several facilities to cross in a single conduit or structure. Crossings should be as near to perpendicular to the road alignment as practical.

115.4(3) *Clear zone requirements and aboveground obstructions.* The department will determine the clear zone distance and cause all obstructions within the clear zone of the primary road rights-of-way to be removed pursuant to Iowa Code sections 318.4 and 318.5.

a. On rural-type roadways, a permanent, aboveground obstruction is to be situated as near to the right-of-way line as practical in an area beyond the clear zone or the road foreslope, whichever area locates the obstruction a greater distance from the edge of the traveled way, right-of-way width permitting.

b. On urban-type roadways, the face of a permanent, aboveground obstruction is to be situated no closer than 10 feet from the back of the curb. In areas with parking or auxiliary lanes, an aboveground obstruction is to be situated no closer than 2 feet behind the back of the curb or a minimum of 10 feet from the edge of the traveled way, whichever location is farther from the traveled way.

c. Poles, guys, anchors and related appurtenances shall be situated away from roadway shoulders, the foreslope, the flowline of ditches, and drainage structure openings in an area that minimizes interference with department maintenance operations.

d. Pedestals, cabinets, vaults, hand holes or similar appurtenances should be placed 1 foot from the right-of-way line. The number of installations is subject to district representative approval.

e. If sufficient right-of-way is not available to accommodate the clear zone distance, the department may require the use of breakaway devices, self-supporting poles or towers, double-arming and insulators or dead-end construction; require regrading of the rights-of-way; require the utility facility to be located underground; or authorize the utility facility to be placed near the right-of-way line. The district representative may approve the adjustment of minimum setback distances for poles and other appurtenances that have a breakaway design.

f. Additional clear zone requirements for freeways are included in subrule 115.13(2).

761—115.5(306A) Scenic enhancement.

115.5(1) *Introduction.* The type and size of a utility facility and the manner in which it is installed can materially alter the scenic quality, appearance and view of roads and adjacent areas. Such areas may include but are not limited to scenic strips, scenic overlooks, rest areas, recreation areas, public parks and historic sites, aesthetically enhanced corridors, and the rights-of-way of primary roads that pass through or are adjacent to these areas.

115.5(2) *Underground installations.* The department may permit a new underground installation if it does not require extensive removal or alteration of trees or other natural features visible to the road user and if it does not impair the visual quality of the area being traversed.

115.5(3) *Aboveground installations.* The department may permit a new aboveground installation only if the following three conditions are met:

a. Other locations for an aboveground installation are unusually difficult, are unreasonably costly, or are less desirable from the standpoint of visual quality.

b. Underground installation is not technically feasible or is unreasonably costly.

c. The location, design and materials to be used for the proposed aboveground installation will give adequate attention to the visual qualities of the area being traversed.

761—115.6(306A) Liability. The following are conditions of a permit:

115.6(1) *The utility owner.* The utility owner will defend, indemnify and save harmless the state of Iowa, its agencies and employees from any and all causes of action; suits at law or in equity; for losses, damages, claims or demands; and from any and all liability and expense of whatsoever nature (including reasonable attorney fees) arising out of or in connection with the utility owner's use or occupancy of the primary road rights-of-way or noncompliance with rule 761—115.19(306,306A) to rule 761—115.24(306A).

115.6(2) *The state of Iowa.* The state of Iowa, its agencies or employees, will be liable for expense incurred by the permit holder in its use and occupancy of the primary road rights-of-way only when negligence of the state, its agencies or employees, is the sole proximate cause of such expense. Whether in contract, tort or otherwise, the liability of the state, its agencies or employees, is limited to the reasonable, direct expenses to repair damaged utilities, and in no event will such liability extend to loss of profits or business, indirect, special, consequential or incidental damages.

761—115.7(306A,320) Utility permit.

115.7(1) *Applicant contact.* The permit request is to include contact information for the utility owner or utility owner's designated representative.

115.7(2) *Permit.*

a. At a minimum, a utility permit allows:

(1) The applicant or the applicant's contractor to perform the work covered by the permit.

(2) The utility facility described in the permit to occupy the primary road rights-of-way.

(3) The utility facility to be operated and maintained.

b. A utility permit does not convey a permanent right of occupancy.

115.7(3) *Plan.* Each permit request is to be accompanied by a plan. The plan shall include all of the following that are applicable to the installation:

a. Location of the utility facility by route, county, section(s), township(s), range(s), reference post and primary road stationing, where these references exist.

b. Primary road centerline and rights-of-way limits.

c. Location of the utility facility by distance to the nearest foot at each point where the utility facility's location changes alignment, as measured from the:

(1) Centerline of the primary road on nonfreeway installations.

(2) Right-of-way fence on freeway installations.

d. Applicable construction details, including the:

(1) Depth of burial.

(2) Types of materials to be used in the installation.

(3) Type and size of the utility facility, including operating pressures and voltages, number of cable pairs, and fiber counts.

(4) Vertical and horizontal clearances.

(5) Traffic control plan prepared by a person knowledgeable in work zone traffic control or a reference to a standard traffic control plan of the department.

115.7(4) *Discharging into waterways.*

a. A permit request for the placement of a utility facility that will discharge materials into the nation's waters is to be accompanied by satisfactory evidence of compliance with all applicable federal, state and local environmental statutes, ordinances and regulatory standards.

b. The utility owner is responsible for obtaining these approvals. The department may withhold a permit until these approvals are obtained.

115.7(5) *Department action on permit request.*

a. The department will act on the permit request within 30 days after the filing of the permit request with all necessary and accurate information. If an emergency should exist, the department will act on the request as expeditiously as practical.

b. Failure on the part of the utility owner to provide complete information may result in a delay in the department taking final action on the request.

115.7(6) *Changes to work.* Changes in the work as described in the original permit require the prior approval of the department and shall be documented in a revised permit and utility as-built plan pursuant to subrule 115.7(8).

115.7(7) *Department-issued permit.* The utility owner or the utility owner's designated representative is to have a complete copy of the department-issued permit in paper or electronic form, including attachments, at the construction site at all times for examination by the department. Failure to have the approved permit and attachments on site shall result in the department halting work until the issued permit is produced.

115.7(8) *As-built plan.*

a. Within 90 days after completion of construction, the utility owner is to submit to the department an as-built plan in an electronic format in accordance with department specifications.

b. If the utility owner fails to submit the as-built plan within the time required, the department may hire an independent contractor to locate the utility facility and prepare an as-built plan. All costs associated with this activity are the responsibility of the utility owner.

c. Any costs incurred by the department or its contractors due to incorrect as-built information supplied by the utility owner or deviations in actual placement from that described in the original permit are the responsibility of the utility owner.

115.7(9) *Transfer of permit.* A new utility permit is not needed when a utility facility is transferred or leased in its entirety. The requirements of the permit and this chapter remain in force for as long as the utility facility continues to occupy the primary road rights-of-way and serve the intended purpose. The transferee or lessee is to submit the following information to the appropriate district representative:

a. The name, mailing and email address and telephone number of the transferee or lessee.

b. Geographical area involved in the transaction.

c. Permit numbers or issued permit documents for utility facilities within the geographical area.

115.7(10) *Term of permit.* Except for permits for longitudinal occupancy of freeways as outlined in subrule 115.15(11), an issued permit will continue in perpetuity or until future maintenance or construction of the primary road requires an adjustment of the utility facility (more information contained in paragraph 115.3(2)*"b"*).

761—115.8(306A) Traffic protection.

115.8(1) *Traffic control for all work.*

a. When performing work within the rights-of-way, the utility owner is responsible for traffic control operations, including but not limited to providing, installing, maintaining and cleaning warning signs and protective devices; removing warning signs and protective devices when the work is complete; and providing certified flaggers.

b. Traffic control operations shall utilize department standard road plans for traffic control available on the department's website, www.iowadot.gov/design/stdplne_tc.

c. The utility owner shall provide additional protection when special complexities and hazards exist.

115.8(2) *Traffic control for construction and maintenance work that is not emergency work.*

a. The utility owner is responsible for ensuring the use of traffic controls that are adequate for the nature, location and duration of work; type of roadway; traffic volume and speed; and potential hazards. The utility owner is to provide a ten-day notice to 511 of any lane restrictions or traffic closures.

b. Where high traffic volumes cause frequent congestion, routine scheduled maintenance and construction should be avoided during hours of peak traffic.

c. Work areas should be occupied for only as long as it is necessary to safely move in, finish the work, remove all utility work signs and move out.

d. Special care should be taken to clearly mark suitable boundaries for the workspace with channelizing devices so that pedestrians and drivers can see the workspace. If any of the traveled lanes are closed, tapers are to be used as required by the MUTCD.

e. Pedestrians should not be expected to walk on a path that is inferior to the previous path. Loose dirt, mud, broken concrete or steep slopes may force pedestrians to walk on the roadway rather than the sidewalk. Pedestrian detours, including those to accommodate persons with disabilities [Americans with Disabilities Act of 1990 (PL 110-336) 104 Stat. 327 (1990) (ADA)], may be required at the discretion of the district representative. Repairs (temporary or permanent) to damaged sidewalks should be made quickly. This may include bridging with steel plates or good quality wood supports.

f. Work areas involving excavations on the roadway should not exceed the width of one traffic lane at a time. The work should be staged and, if needed, approved bridging should be used. The utility owner should fully coordinate this type of activity with the district representative and, in a city, with the city's traffic or public works office.

115.8(3) *Traffic control for emergency work.*

a. The extent of traffic control used for emergency work may be less than that used for longer-term construction or maintenance. However, the utility owner is responsible to provide for the safety of pedestrians, motorists and workers. It may be necessary for the utility owner to contact local law enforcement officials to assist in securing the safety of the traveling public.

b. The work vehicle is to be equipped with an amber revolving light or amber strobe light, portable signs and channelizing devices, and necessary equipment for flagging operations.

761—115.9(306A) Construction responsibilities and procedures.

115.9(1) *Permit required before work may begin.* The utility owner shall not commence construction work in the primary road rights-of-way until the utility owner has received a fully approved and issued permit from the department.

115.9(2) *Notice of construction.* The utility owner shall give the district representative at least 48 hours' prior notice of the utility owner's intent to start construction within the rights-of-way.

115.9(3) *Authority of the district representative.*

a. The district representative has the authority to resolve any issues or concerns that arise regarding the intent of the permit and compliance therewith.

b. During the progress of the work, the district representative may approve minor alterations in the plan or character of the work that the district engineer deems necessary or desirable to satisfactorily complete the work. Such an alteration is not a waiver of the permit, nor does it invalidate any provision of the permit.

115.9(4) *Work in progress.* The utility owner is responsible for the care and maintenance of partially completed work within the rights-of-way. Unless otherwise authorized by the permit or the district representative, all work performed within the rights-of-way is to be accomplished within the time frame of 30 minutes after sunrise to 30 minutes before sunset.

115.9(5) *Department inspection.*

a. The department may inspect any permitted work performed within the rights-of-way.

b. If the department finds performance of permitted work is not in compliance with the issued permit, the department will provide to the utility owner written notice of the defects found. The utility owner is to perform any rework or removal as ordered by the department in the time frame established by the department.

115.9(6) *Department inspectors.* The department may appoint inspectors to represent the department in the inspection of construction. Inspectors are placed on the job to keep the district representative informed of the progress of the work and the manner in which it is being performed, and to call to the utility owner's attention any infringements of the permit. The inspectors may not:

a. Modify in any way the provisions of the permit.

b. Delay the work by failing to inspect the work with reasonable promptness.

c. Act as a supervisor for the work or perform any other duties for the utility owner or its contractor.

d. Improperly interfere with the management of the work.

e. Approve or accept any portion of the work on behalf of the department.

115.9(7) *Repair and cleanup.* Prior to the department's final inspection, the utility owner is to:

a. Upon notification by the department, make any repairs to the rights-of-way that are necessary due to the construction work, including but not limited to shoulder and pavement repairs within the time frame established by the department.

b. Remove from the rights-of-way all unused materials and rubbish resulting from the work and leave the rights-of-way in a clean, presentable condition.

c. Make arrangements for repair or compensation for any damage to another utility facility or tile line found to have been caused by the utility owner's actions.

115.9(8) *Completion of work.*

a. The utility owner is to notify the district representative upon completion of work.

b. Upon notification by the utility owner that the work is complete, the department may inspect each item of work included in the permit as set out in subrule 115.9(5).

761—115.10(306A) Vertical overhead clearance requirements.

115.10(1) *Conformance to standards.* The vertical clearance for overhead utility facilities and the lateral and vertical clearances for bridges are to conform to generally accepted industry standards as well as applicable codes and regulations.

115.10(2) *Minimum vertical clearance.*

a. In no event shall the vertical clearance be less than 20 feet above the roadway for all overhead utilities.

b. Utility facility attachments to existing utility-owned poles are to be documented in a fully executed attachment agreement between the applicant and the pole owner for all poles not owned by the applicant and included in the permit request.

c. When a primary road detour has been established utilizing local jurisdiction roadways and streets, the minimum vertical clearance shall be applied to the temporary detour route at no cost to the department.

761—115.11(306A) Utility facility attachments to bridges.

115.11(1) *Department determination.* Utility facilities may be attached to an existing primary road bridge if the department determines that the attachment is in the best interests of the public. The department may accommodate utility facility attachments or conduits in the department's design for a new bridge if the department determines that the accommodation is in the best interest of the public.

115.11(2) *Method and weight of attachment.* The plan identified in subrule 115.7(3) is to show the method and weight of attachment. A separate permit is required for each bridge.

a. All attachments are to be placed in conduits, cells, pipes or trays; beneath the bridge's floor; inside the outer girders or beams; and above low steel or masonry of the bridge.

b. Department-approved clamps are to be used for any attachments to structural steel. Attachments are to be designed to withstand expansion or contraction forces.

c. If necessary, expansion devices, such as expansion joints, offsets or loops, shall be used. Utility facilities in cells or casings are to be grounded wherever necessary.

d. Welding or drilling holes in structural steel primary members is prohibited.

e. Utility facilities may be attached to noncritical concrete areas.

f. Holes should not be cut in wing walls, abutments or piers.

115.11(3) *Attachment considerations.*

a. Carrier pipe is to be suitably insulated from electrical power line attachments.

b. Pipelines may be attached to primary road bridges when installation below ground is not feasible, the design of the bridge can accommodate the attachment, and space is available.

c. Pipelines that have an operating pressure of more than 75 pounds per square inch or that are larger than 2 inches in diameter are to have shutoffs not more than 300 feet from each end of the bridge.

d. The department will consider pipeline attachment casing requirements on an individual basis. In some instances, thicker-walled or extra-strength pipe may be considered in lieu of encasement. Encasement is required for plastic pipe attachments to bridges.

e. The utility owner is to provide an indemnity bond to be executed by either itself or by a responsible bonding company, at the department's option.

(1) The indemnifier under the bond is to, in the event of damage resulting from any cause whatsoever arising out of or from permission to attach a pipeline, indemnify the department against all loss or damage to the department or any third party, including but not limited to the expense of repairing or replacing the bridge and the cost of alternate primary road facilities for traffic during the period when the bridge is being repaired or replaced.

(2) The indemnity bond is to be kept in force for as long as the pipeline is attached to the bridge.

(3) The department may periodically review the amount of the bond and require adjustments in the bond amount.

f. All costs attributable to the installation of an attachment to a bridge are to be paid by the utility owner unless the attachment is installed pursuant to a utility agreement.

115.11(4) *Attachment fee.*

a. The utility owner is to pay to the department an attachment fee for attaching the utility owner's utility facility to a primary road bridge. The attachment fee is $181.60 per bridge plus $0.99 times the weight of the attachment in pounds per foot times the length of the bridge in feet. The fee will increase 3 percent per year over the previous year after the base year of 2024. Additional fees may apply for longitudinal freeway occupancy (more information contained in subrule 115.15(8)). The department maintains the current fee listing available on the department's website at www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination.

b. The attachment fee is due before any construction work commences within the rights-of-way and shall be submitted to the department upon request.

c. Utility facilities dedicated solely to government use may, at the department's discretion, be attached to a primary road bridge without assessment of an attachment fee.

115.11(5) *Utility attachments to freeway border bridges.* The department may permit a utility facility to be attached to an existing or planned freeway border bridge if the following conditions are met:

a. The appropriate state agency of the adjoining state approves the attachment.

b. Except for communication cable, the utility facility exits the freeway rights-of-way as soon as physically practical after crossing the state line into Iowa.

c. The attachment otherwise complies with this chapter, specifically including this rule and rule 761—115.15(306A) on longitudinal freeway occupancy.

761—115.12(306A) Underground utility facilities.

115.12(1) *Depth requirements.*

a. Minimum cover—roadway. The minimum required cover under a roadway is 48 inches below the bottom of the pavement.

b. Minimum cover—waterways. A minimum of 10 feet of cover below the flowline is required under waterways at the time of placement.

c. Minimum cover—other portions of rights-of-way. The minimum required cover under other portions of the rights-of-way is measured from design elevation at the time of placement and is to be a minimum of:

(1) 48 inches for electrical cable.

(2) 30 inches for communication cable, except that 36 inches is required for longitudinal occupancy under freeway rights-of-way.

(3) 36 inches for all other underground utility facilities.

d. Rocky terrain. The department may allow an exception to the minimum depth requirement where rocky terrain makes it difficult to obtain the required depth. The department will determine the minimum depth in these situations; however, no installation will be authorized with less than 24 inches of cover.

e. Other protective measures. In critical situations where the necessary cover cannot be obtained, the department may approve other protective measures.

f. Highly erodible areas. Highly erodible areas may require trenchless installation and additional depth requirements as determined by the district representative.

115.12(2) *Measurement of cover.* The cover is measured from one of the following:

a. On rural-type roadways, the lowest pavement surface edge.

b. On urban-type roadways, the gutter flow line, excluding local depressions at inlets.

c. Where longitudinal installations will be behind the curb, the top of the curb.

d. The surface of the surrounding ground or the low point of the ditch.

115.12(3) *Casing.* A casing is to:

a. Protect the road from damage.

b. Protect the carrier pipe from external loads or shock, either during or after construction of the road.

c. Convey leaking liquids or gases away from the area directly beneath the traveled way.

d. Provide for repair, removal and replacement of the utility facility without interference to the road.

e. Leave no excessive voids around the pipe (more information on procedures for backfilling contained in subrule 115.12(7)).

f. Be of sufficient strength to withstand the external loads created by the vehicular traffic on the roadway being traversed.

g. Be properly installed with fill compacted to department specifications.

h. Be made of material that complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards.

115.12(4) *Seals.* Casing pipe shall be sealed at both ends with a suitable material to prevent water or debris from entering the annular space between the casing and the carrier.

115.12(5) *Encasement and related requirements.*

a. Trenchless construction. Underground crossings of existing paved roadways, gravel entrances and residential or business frontage roads shall be accomplished by trenchless construction. Other installation methods may be authorized by the district representative and noted in the permit. The utility owner is responsible for contacting the property owner prior to any open cuts in entrances and residential or business frontage roads.

b. Transverse crossings. Underground transverse crossings of freeways and primary roads are to be encased from right-of-way line to right-of-way line and clearly marked by the utility owner at the outer limits of the rights-of-way. Encasement exceptions for transverse crossings may be authorized by the district representative on a case-by-case basis.

c. Longitudinal installations. Utility lines installed longitudinally to the primary road rights-of-way are to be encased at entrances and crossings of hard-surfaced roads and streets. Encasement exceptions for longitudinal installations may be authorized by the district representative on a case-by-case basis.

d. Electrical service. Underground electrical service is to be placed in a conduit from right-of-way line to right-of-way line and clearly marked by the utility owner at the outer limits of the rights-of-way.

e. Pipelines.

(1) Exceptions to pipeline encasement may be made for a pipeline carrying natural gas at an operating pressure of 60 pounds per square inch or less that is made of copper, steel or plastic and is protected and installed in accordance with generally accepted industry standards; and the utility owner certifies as a part of the permit that these standards are met.

(2) Exceptions to pipeline encasement may be made for a pipeline carrying liquid petroleum products, ammonia, chlorine or other hazardous or corrosive products if the pipeline meets all of the following requirements and the utility owner certifies as a part of the permit that these requirements are met:

1. The pipeline is welded steel pipeline.
2. The pipeline is cathodically protected.
3. The pipeline is coated in accordance with generally accepted industry standards.
4. The pipeline complies with federal, state and local requirements and meets generally accepted industry standards regarding wall thickness and operating stress levels.

(3) Pipeline encasements are to be vented and marked at the outer rights-of-way limits. The markers are to meet generally accepted industry standards and include the following information:

1. Name and address of the utility owner.
2. Telephone number to contact in case of an emergency.
3. Type of product carried.

f. Communication cable. The department may require encasement of communication cable.

g. Sanitary sewer lines. Exceptions to sanitary sewer line encasement may be made for gravity flow lines installed subsequent to road construction if all of the following requirements are met:

(1) The opening is cut to the size of the carrier pipe so that there are no excessive voids around the pipe.

(2) The pipe is of sufficient strength to withstand the external loads created by the vehicular traffic on the roadway being traversed.

(3) Lines beyond the toe of foreslope are properly installed and compacted to department specifications.

h. Waterlines. Exceptions to waterline encasement may be made for the following:

(1) Encasement is not required where it is impractical due to existing conditions as determined by the district representative.

(2) Venting and sealing of waterlines encasement is not required for waterlines with an inside diameter of 2 inches or less.

(3) Waterlines installed in advance of road construction need not be encased if the pipe is properly embedded and made of extra strength cast iron or ductile iron pipe with mechanical joints and seals, or equivalent.

i. Installations vulnerable to damage. When it is acceptable to both the utility owner and the department, an underground utility facility that, by reason of shallow depth or location, is vulnerable to damage from road construction or maintenance operations may be allowed to remain in place and shall be protected with a casing, suitable bridging, concrete slabs or other appropriate measures and noted in the permit.

j. Other installations. When it is acceptable to both the utility owner and the department, an underground utility facility not otherwise addressed in this subrule may be installed without protective casing if the installation involves trenched construction.

115.12(6) *Multiduct systems.* The department may require installation of a multiduct system to be shared with others. Details of the installation are subject to department approval.

a. For other multiduct systems, the department may designate a “lead company” for the multiduct system. The lead company will generally be the first utility owner requesting occupancy. The lead company is to:

(1) Design and install the multiduct system.

(2) Maintain the multiduct system.

(3) Provide all capital required to construct the multiduct system.

b. Once a multiduct system has been established, the department may require future occupancies to be located within one of the unoccupied inner ducts of the system. If all inner ducts are occupied, the department may require the establishment of an additional multiduct system. Subsequent occupants of a multiduct system should share equally in the entire capital cost of the utility facility. As each new occupant is added to an existing system, the department may require the new occupant to pay its proportionate share based on the number of inner ducts it occupies.

c. More information is contained in subrule 115.15(8) regarding occupancy fees for longitudinal installations on freeways.

115.12(7) *Procedures for backfilling trenched construction and jacking or boring pits.*

a. When a carrier, pipe, conduit, or cable is placed by trenched construction, jacking or boring, the backfill shall be placed and compacted in accordance with department specifications so that there is no settlement or erosion. Should settling or erosion of a trench be observed, the utility owner will be responsible to correct the problem.

b. Backfill under roadways or entrances is to be of a suitable material to minimize settlement at the site. Examples of suitable material include granular backfill or flowable mortar.

115.12(8) *Procedures for trenchless construction.*

a. When trenchless construction techniques are used, the bore is to be as small as practical and in accordance with department specifications.

b. Grout backfill is to be used for all unused holes and abandoned pipes. Grout or sand backfill is to be used for any borehole more than 2 inches larger than the installed casing or other utility facility. All bored utility facilities are to be constructed in such a manner that surface water is not transported to or otherwise allowed access to groundwater.

115.12(9) *Procedures for pavement removal.*

a. When the existing pavement is cut to accommodate a utility installation, the cut shall be made with a concrete saw.

b. The dimensions of the pavement removal shall be 6 feet in length and full lane width. If the distance from the specified cut to any adjacent longitudinal or transverse joint or crack is less than 4 feet, the pavement removal shall be extended to the joint or crack.

c. The district representative will make the final determination on the required depth and width of cut.

115.12(10) *Procedures for pavement replacement.*

a. Restoration of pavement shall be accomplished in accordance with department specifications.

b. The district representative may authorize temporary repair with bituminous material.

c. A permanent patch shall be placed as soon as conditions permit.

115.12(11) *Clear zone for pits.* Jacking or boring pits are to be located beyond the clear zone or road foreslope, whichever locates the pit a greater distance from the edge of the traveled way.

a. On freeways, jacking or boring pits are not allowed within the median.

b. On rural-type, nonfreeway primary roads, jacking or boring pits may be allowed within the median or foreslope upon request and at the discretion of the district representative.

c. On urban-type, nonfreeway primary roads, jacking or boring pits should be located at least 2 feet from the curb.

d. Jacking or boring pits authorized within the clear zone are to be protected at all times. All protection measures are to be included in the permit request. Examples of protection measures include backfilling of the pit, temporary barrier rail, or reflective fence.

115.12(12) *Construction methods.* Casing and pipeline installations are to be accomplished by dry boring, tunneling, jacking, trenching, or directional drilling.

a. The use of water under pressure, jetting or puddling to facilitate boring, pushing or jacking operations is not allowed.

b. Water may be used to lubricate a cutter and pipe during a dry boring operation.

761—115.13(306A) Freeways.

115.13(1) *Access to utility facilities occupying freeway rights-of-way.*

a. Except for emergency work, access to utility facilities during utility construction or maintenance activities is to be obtained from the areas other than the freeway or its ramps. More information is contained in subrules 115.8(3) and 115.17(2) regarding emergency work.

b. Fence removal and replacement will be determined by the district representative.

c. No gates or ladders are to be placed in or upon the right-of-way fence.

d. The department will coordinate approval from the FHWA for any request to access the interstate right-of-way for utility work.

115.13(2) *Freeway clear zone requirements.* The clear zone requirements of subrule 115.4(3) apply to freeways. In addition:

a. Personnel, equipment and materials are not allowed in the median or within the clear zone area during utility facility construction or maintenance operations, except as provided in paragraph 115.13(2) *"b."*

b. Temporary poles may be allowed in the median during cable or conductor stringing operations at the discretion of the district representative.

115.13(3) *Aboveground appurtenances.* Aboveground appurtenances, including but not limited to poles, guys and other supporting structures, are not allowed within the rights-of-way of freeways.

115.13(4) *Existing utility facilities.*

a. A utility facility occupying land that subsequently becomes freeway rights-of-way may remain within the rights-of-way if the utility facility:

(1) Can be accessed from areas other than the freeway or its ramps.

(2) Does not adversely affect the safety, design, construction, operation, maintenance or stability of the freeway.

b. If the conditions in paragraph 115.13(4)*"a"* are not met, the department may request the utility facility be relocated outside the freeway rights-of-way.

761—115.14(306A) Transverse installations on freeways.

115.14(1) *Interchange areas.*

a. Utility facilities may not be placed within the interchange area of intersecting freeways unless they are road-related.

b. In other interchange areas, the department may permit occupancy if access to the utility facility can be obtained from areas other than the freeway or its ramps, such as an intersecting, adjacent or nearby road or trail.

115.14(2) *Aboveground installations.*

a. A single span is to be used to cross the freeway where the width of freeway rights-of-way permits.

b. Within interchange areas:

(1) Single-pole construction is to be used, with the number of poles kept to a minimum.

(2) Overhead lines are to be constructed on tangent, parallel to the intersecting road, without guys or anchors being placed in the areas between the ramps and the main freeway. Guy poles are to be located as near to the freeway rights-of-way line as practical.

(3) Poles are to be located outside the clear zone and situated as far from the main freeway and ramps and as close to the toe of foreslope of the intersecting road as practical but shall remain outside the clear zone.

(4) The use of self-supporting poles or towers, double arming and insulators, breakaway devices and dead-end construction should be considered.

761—115.15(306A,314) Longitudinal installations on freeways.

115.15(1) *Type of installation permitted.*

a. Pursuant to Iowa Code section 314.20, the department may permit the installation of an underground utility facility if, in addition to complying with other provisions of this chapter, the utility facility specifically complies with this rule.

b. Except as provided in this rule, no aboveground installations other than those needed to serve road facilities are allowed.

c. If the department determines that an aboveground installation is necessary to advance the state's priorities, can be installed safely with minimal impact on the traveling public, can be safely accommodated within existing right-of-way, is along a roadway that is not anticipated to require additional right-of-way for future improvements in the foreseeable future, and extends for a relatively short distance, the department may permit installation with proper justification.

115.15(2) *Prohibitions on longitudinal occupancy.*

a. A utility facility may not be placed longitudinally within freeway rights-of-way that is used for transmitting gases, liquids, or products that are flammable, corrosive, expansive or unstable.

b. A utility facility may not be placed longitudinally within the freeway rights-of-way that presents a hazard to life, health or property if it fails to function properly, is severed or is otherwise damaged.

c. No direct service connection to adjacent properties is allowed.

d. No utility facility is allowed in or on a structure carrying a freeway roadway or ramp, except for freeway border bridges, as provided in subrule 115.11(5).

115.15(3) *Minimal maintenance.* Once installed, the utility facility should require minimal maintenance.

115.15(4) *Location and depth.* The utility facility should be located on uniform alignment, preferably within 8 feet of the freeway rights-of-way line, and at a location approved by the department.

a. More information is contained in subrule 115.12(1) regarding minimum depth requirements.

b. Installation methods should be minimally invasive and authorized by the district representative.

c. Utility accesses should be placed below the existing ground line. The locations and number of accesses are subject to district representative approval.

115.15(5) *Pedestals, cabinets, vaults, hand holes, repeater stations or similar appurtenances.*

a. Aboveground pedestals are permissible. All pedestals, cabinets, vaults, hand holes or similar appurtenances should be placed one foot from the right-of-way fence. The number of installations is subject to district representative approval.

b. Repeater stations are not allowed in the rights-of-way.

115.15(6) *Metallic warning tape.* Metallic warning tape is to be installed a minimum of 12 inches below the existing grade and above the utility installation unless installation is done by directional boring or other trenchless methods.

115.15(7) *Engineering.* The utility owner is to retain the services of a licensed, professional engineer familiar with the requirements for utility work to be accomplished in Iowa.

a. The engineer is responsible for overseeing continuous on-site inspection of the installation of the utility facility, including all provisions pertaining to access to the work site and traffic control.

b. Upon completion of the project, the engineer is to certify to the department on the appropriate form that the installation, traffic control, and access to the work site were accomplished in accordance with the permit.

c. Any change to the alignment as described in the permit requires the prior approval of the district representative and is to be included in the as-built plan (more information is contained in subrule 115.7(8)).

115.15(8) *Occupancy fee.* The utility owner is to pay to the department an annual fee for longitudinal occupancy of the freeway rights-of-way in accordance with Iowa Code section 314.20. The initial fee is due before any construction work commences within the rights-of-way. Additional fees may apply for bridge attachments (more information is contained in subrule 115.11(4)). The department maintains the current fee listing available on the department's website at www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination.

a. Unless otherwise specified, the annual fee is based on the number of ducts, cables and length in miles as follows:

(1) When a multiduct system is required by the department the fee is $26,188.61 per cable installation or $13,094.31 per mile of cable, whichever is greater. These fees increase 3 percent per year over the previous year after the base year of 2024.

(2) The fee for all other installation is $21,673.33 per cable installation or $4,252.25 per mile of cable, whichever is greater. These fees increase 3 percent per year over the previous year after the base year of 2024.

b. When the department requires the installation of a multiduct system, the department may enter into an agreement with the lead company for a discounted fee payment schedule to be in effect until the company has recovered all or an agreed upon portion of its cost of installing the system. Subsequent occupants of the multiduct system will be required to pay the full annual fee.

c. Utility facilities dedicated solely to state government use may, at the department's discretion, longitudinally occupy freeway rights-of-way without assessment of an occupancy fee.

115.15(9) *Performance bond.* The utility owner is to file a performance bond with the department prior to commencing work within the freeway rights-of-way.

a. The bond shall be in the minimum amount of $100,000 per permit as determined by the district representative and shall guarantee prompt restoration of any damage caused during the installation of the utility facility.

b. The bond is to be in force for the duration of the construction. The department may file a claim against the bond for two years thereafter.

115.15(10) *Insurance.*

a. The utility owner shall maintain the following insurance for bodily injury, death and property damage arising out of or in connection with the construction, maintenance and operation of the utility facility:

(1) General public liability insurance with limits of not less than $500,000 for injury to or death of a single person, or not less than $1,000,000 for any one accident, and not less than $250,000 per accident for property damage.

(2) Comprehensive automobile liability insurance with limits of not less than $500,000 for injury to or death of a single person, or not less than $1,000,000 for any one accident, and not less than $250,000 per accident for property damage.

(3) Excess liability coverage with limits of not less than $5,000,000.

(4) Statutory workers' compensation coverage.

b. This insurance is to be in effect before the utility owner commences any work within the freeway rights-of-way.

c. Coverage may be provided by blanket policies of insurance covering other property or risks.

d. The department is to be named as an additional insured party in the general public liability and excess liability insurance policies.

115.15(11) *Term of permit.* The permit is valid for 20 years from the date of issuance. Upon written request, the department may extend or renegotiate the term.

115.15(12) *Utilities for road facilities.* Longitudinal occupancy of utility facilities that service road-related facilities are permissible upon such terms and conditions as the department may determine.

761—115.16(306A) Longitudinal installations on nonfreeway primary roads.

115.16(1) *Location.* Longitudinal utility facility installations should be located on uniform alignment as near as practical to the right-of-way line to provide a safe environment for traffic operations and to preserve space for future road improvements and other utility installations.

115.16(2) *Underground installations.*

a. No carrier of flammable, corrosive, expansive or unstable material may be placed longitudinally within the rights-of-way of a nonfreeway primary road. Exceptions:

(1) A natural gas line with an operating pressure that is no greater than 150 pounds per square inch is permissible.

(2) The department may permit the placement of a natural gas line with an operating pressure that is greater than 150 pounds per square inch only if a suitable alternate location cannot be found.

b. On rural-type roadways, utility facilities shall be located in an area beyond the road foreslope and ditch bottom, right-of-way width permitting. Exceptions to the location may be made by the district representative for areas such as deep ravines or ditches. When adequate room within the rights-of-way is available, the utility facility shall be installed beyond the end of any culverts at a minimum depth of 10 feet beneath the normal flow line. When adequate room within the rights-of-way is not available, the utility facility shall be installed by trenchless methods a minimum depth of 10 feet beneath any culverts.

c. On urban-type roadways, utility facilities shall be located as near to the right-of-way line as practical. A utility access placed within the rights-of-way shall not protrude above the surrounding surface.

d. Utility facilities should not be placed in the median. The district representative may allow an installation within the median if a suitable alternative is not found.

e. Utility facility locations shall be marked and identified as set out in subrule 115.3(12).

761—115.17(306A) Maintenance and emergency work.

115.17(1) *Maintenance responsibilities.* The utility owner is responsible for utility facility maintenance. The utility owner is to:

a. Maintain the utility facility in a good state of repair.

b. Replace and stabilize all earth cover and vegetation where erosion has occurred over an underground utility facility when the erosion is due to or caused by the placement or existence of the utility facility.

c. Give the district representative 48 hours' prior notice of the utility owner's intent to perform predictable routine maintenance within the rights-of-way.

115.17(2) *Utility emergency work.*

a. Access to the worksite is permissible from the freeway roadways and ramps when an emergency exists.

b. The utility owner shall take all necessary, appropriate and reasonable measures to protect the safety of the traveling public and cooperate fully with law enforcement and the department in completing the emergency work.

c. The utility owner shall notify the district representative of the emergency as soon as practical, describing the steps being taken to protect the traveling public, the extent of the emergency, and the steps being taken to address the emergency.

d. If the nature of the emergency is such that it interferes with the free movement of traffic, the utility owner shall immediately notify law enforcement, 511 and the district representative.

e. When an emergency occurs on the interstate system, the department will notify the FHWA as soon as practical, describing the steps being taken to protect the traveling public and the steps being taken to address the emergency.

115.17(3) *Department emergency work.* There will be times when the department performs road-related emergency work. If utility facilities are affected, the department shall as soon as practical notify the utility owner of the emergency condition and what steps are necessary to protect the utility facility.

761—115.18(306A) Abandonment, out-of-service facilities, or removal of utility facilities.

115.18(1) *Ownership.* The utility owner shall continue to own, maintain, map, locate and mark its abandoned and out-of-service facilities within the primary road rights-of-way.

115.18(2) *Notice to department.* Within 90 days after the abandonment, out-of-service designation, or removal of all or a portion of an existing utility facility that occupies the primary road rights-of-way, the utility owner is to submit a notice of abandonment, out-of-service designation, or removal to the district representative. The notice shall include:

a. Type of utility facility.

b. Location of the utility facility by route, county, section, township, range, milepost and primary road stationing, where these references exist.

c. Name of the original utility owner if different than the current utility owner.

d. Original permit number and date of approval, if known.

761—115.19(306,306A) Utility facility adjustments for primary road improvement projects. Rules 761—115.20(306A) through 761—115.24(306A) establish administrative procedures for utility facility adjustments made necessary by primary road improvement projects pursuant to Iowa Code section 306A.10, including information exchange and the responsibilities of the department, utility owners, and the department's contractor. The purpose of these procedures is to adjust utility facilities with minimal delays or added expense pursuant to Iowa Code section 306.47. Rules 761—115.20(306A) through 761—115.24(306A) apply to all primary road improvement projects with the following exceptions:

1. Projects the department develops on an accelerated schedule.
2. Projects with no anticipated utility adjustments.

115.19(1) *Adjustment of facilities.* If, despite making reasonable efforts to avoid or minimize the need for adjusting an existing utility facility, it is determined that adjustment is required due to proposed primary road construction, the utility owner is to adjust the utility facility in advance of the road construction. Scheduling of relocation work in the case of the following exceptions should be coordinated with the district representative:

a. Relocation work that needs to be coordinated with the department's contractor.

b. Relocation work that is dependent on work to be performed by another utility company.

c. Relocation work that is not practical until certain department project construction activities occur.

115.19(2) *Relocation costs.*

a. If adjustment of an existing utility facility occupying the right-of-way is required due to proposed primary road construction, the utility owner is to adjust the utility facility without cost to the state.

b. If adjustment of an existing utility facility located on an easement outside existing rights-of-way is required due to proposed primary road construction, approved relocation costs will be eligible for reimbursement by the department through a reimbursement agreement.

c. When the department participates in the cost of a utility facility adjustment required for proposed primary road construction, the department will not pay for a betterment that results in an increase in the capacity of the utility facility or for any other adjustment not required by proposed primary road construction and is made solely for the benefit of and at the election of the utility owner. The department is entitled to receive credit for the accrued depreciation on replaced facilities and the salvage value of any materials or parts salvaged and retained or sold by the utility owner.

d. Adjustment costs for which the department is responsible will be paid on a cost reimbursement basis through a reimbursement agreement. Estimates shall follow the cost development and reimbursement requirements outlined in 23 CFR 645 (Subpart A, 645.117) as amended October 1, 2023.

761—115.20(306A) Utility investigation and notice of project.

115.20(1) *Determining affected utilities.*

a. The department will make a reasonable effort to identify utility facilities located in the vicinity of a proposed primary road project and collect location information and attributes.

b. The department will periodically evaluate the information available and determine the utility investigation needs for the project. Utility companies are to respond to collaboration efforts with the department to determine the best approach to meet those needs.

c. The department will look at potential utility impacts and initiate coordination with utility owners. A utility conflict list should be used to document and track information obtained on the potential utility conflicts.

115.20(2) *Notifying utilities.* The department will identify by name the owner of each known utility facility located within the vicinity of a proposed primary road project. In accordance with Iowa Code section 306A.10, the department will send to each identified utility owner a notice of the improvement project, including the route number of the primary road, the geographical limits of the project and a general description of the proposed primary road work to be done, type of project, important schedule milestones, and, if available, the name and contact information of the designer or a department's representative for coordination purposes.

115.20(3) *Responding to notice.* The utility owner shall:

a. Within 30 calendar days after the date of the notice, provide to the department information about the utility owner's utility facilities that are in the vicinity of the improvement project. This information shall include the following:

(1) A confirmation in writing that the utility owner has or has no facilities in the vicinity of the project.

(2) Information on the utility owner's utility facilities' location and attributes, the name of any other utility companies that have utility facilities that coexist with the utility owner's utility facilities and contact information of the coexisting utility owner's authorized representative.

b. The utility owner is to reply regardless of whether or not it has utility facilities in the project's vicinity.

761—115.21(306A) Preliminary plan, verifying accuracy of information.

115.21(1) *Depicting utility information.* The department will use collected information to list all known utility owners within the vicinity of a proposed primary road project and include the utility owners' utility facility locations on the project plans in accordance with department specifications.

115.21(2) *Preliminary plan.* The department will submit its preliminary plan to the owner of each known utility facility within the vicinity of a proposed primary road project and ask utility owners to provide information regarding the accuracy of utility information depicted in the preliminary plan and potential conflicts and the utility owners' recommended solutions. The department should schedule a utility coordination meeting after the preliminary plan is sent to the utility owners.

115.21(3) *Response to the preliminary plan.*

a. The utility owner shall review the preliminary information sent by the department and provide a response within 30 calendar days. The response is to include the following:

(1) A statement regarding the accuracy of the location of the utility owner's existing utility facilities as depicted in the preliminary plan. If the information is inaccurate, a description of the inaccuracies is to be provided.

(2) A declaration that there are no known conflicts between the utility owner's utility facilities and the department's project, or a description of any potential conflicts between the utility owner's utility facilities and the department's project.

(3) Utility owners may provide recommended changes to the department's plan that may help to avoid or minimize impacts to utility facilities.

(4) Any other relevant information regarding potential utility facility conflicts, such as potential rights-of-way needs, permits that may be required, estimated time frame required for utility facility relocations, and any dependencies with other utility owners' work or the department's contractor.

b. The utility owner is to reply regardless of whether or not the utility owner's utility facilities in the project's vicinity are impacted by the proposed primary road project.

761—115.22(306A) Semifinal plan, utility work plan.

115.22(1) *Preparation of semifinal plan.* When preparing the semifinal plan, the department should review information provided by utility owners in response to the preliminary plan that was received within the requested time frame and implement recommended changes when feasible. The project utility investigation needs may be reevaluated to determine the best approach to meet those needs.

115.22(2) *Distribution of semifinal plan.* The department will submit its semifinal plan to the owner of each known utility facility within the vicinity of a proposed primary road project. The semifinal plan contains information details of the department's project to assist the utility owner in the design and the adjustment of the utility owner's utility facilities.

115.22(3) *Work plan.* Within 90 calendar days after the date the department provides its semifinal plan, the utility owner shall submit to the department a work plan for the adjustment or relocation of utility facilities impacted by the proposed primary road project.

a. The work plan is to include the following:

(1) A narrative description of what work the utility owner will do.

(2) An electronic plan or drawing showing the existing and proposed locations of the utility owner's utility facilities in relation to the semifinal plan.

(3) Whether the work is dependent on work by another utility owner.

(4) Whether the work can be done prior to road construction or must be coordinated with the department's contractor.

(5) Whether the work is dependent on the acquisition of rights-of-way.

(6) The number of working days required to complete the work and the earliest date when the utility owner could begin to implement the work plan.

(7) A list of permits and approvals the utility owner is required to obtain from governmental agencies and railroad companies for the work, and the expected time schedule to obtain them.

(8) The expected lead time in calendar days to obtain materials, schedule work crews, and obtain necessary rights-of-way.

(9) Any other information that may be useful to the department or the department's contractor.

b. If the utility adjustment work may be reimbursable, the utility owner shall include the following with the work plan:

(1) Documentation of real estate interests.

(2) A detailed cost estimate for the adjustment, including appropriate credits for betterments or salvage.

115.22(4) *Conflict between work plans.* When requested by the utility owners or when the department determines there is potential for conflict between work plans, the department shall schedule a coordination meeting. All affected utility owners shall attend the meeting to coordinate the utility owners' work plans. The department may allow a utility owner an additional 30 calendar days to submit the utility owner's work plan if coordination is required with other utility owners.

115.22(5) *Department review of work plan.* The department will review each utility owner's work plan to ensure compatibility with permit requirements, the department's project, other utility work plans, and the department's project schedule.

a. If the work plan is acceptable, the department will notify the utility owner of the department's acceptance of the utility owner's work plan.

b. All relocation work plans should ensure the safety and reliability of the utility facilities and the road and avoid any unnecessary cost or delay. An approved and issued permit is to be obtained for work within the primary road rights-of-way. Any work plan by itself does not constitute a permit nor does it grant permission to occupy primary road rights-of-way.

c. If the work plan is not acceptable to the department, the department will notify the utility owner that the work plan is not acceptable and provide a detailed explanation of the problem.

d. The utility owner is to submit a revised work plan to the department within 30 calendar days after the utility owner's receipt of notice from the department that the work plan was not acceptable.

e. The department will review the revised work plan. If the revised work plan is acceptable, the department will notify the utility owner of the department's acceptance of the revised plan.

f. If the revised work plan is still not acceptable, the department may initiate noncompliance procedures per subrule 115.3(11). If the department determines that meaningful progress is being made, the department may elect to repeat the process set out in paragraphs 115.22(5)*"c"* to *"e."*

115.22(6) *Reimbursement agreement.*

a. For certain utility facility adjustments, the department may enter into a reimbursement agreement between the department and the utility owner. If applicable, the utility owner is to provide a request for reimbursement to the department prior to commencement of any relocation work. If the department determines that the relocation is eligible for reimbursement, a reimbursement agreement may be prepared between the department and the utility owner and should be fully executed by both parties prior to commencement of any relocation work. The agreement is to include the following:

(1) The responsibilities of each party, including the pro rata share of costs to be borne by each party.

(2) The scope, description, and location of the relocation work.

(3) The relocation work plan.

(4) The itemized cost estimate of the relocation work, including appropriate credits.

(5) The actions to be taken in case of noncompliance with state requirements.

b. A reimbursement agreement by itself does not constitute a permit nor does it grant permission to occupy the primary road rights-of-way. The utility owner is responsible for obtaining a permit prior to commencing work within the rights-of-way.

761—115.23(306A) Notice of work.

115.23(1) *Notice of receipt of permits and approvals.* The utility owner shall notify the department within 14 calendar days after the utility owner has received all required permits and approvals from government agencies and railroad companies.

115.23(2) *Notice to utility owner to begin work.*

a. The department shall send a notice to proceed to the utility owner when necessary approvals are received, permits are issued, and rights-of-way have been acquired for the relocation work.

b. If the utility owner's work plan is dependent upon work by the department's contractor, the department's contractor is to provide the department and the utility owner a good faith notice 14 calendar days before the department's contractor's work is expected to be complete and ready for the utility owner to begin its work. The department's contractor should follow up with a confirmation notice to the department and the utility owner not less than three working days before the department's contractor's work will be complete and ready for the utility owner to begin its work.

115.23(3) *Notice to department of commencement and completion of work.* The utility owner is to give the department 48 hours' prior notice, excluding weekends and holidays, of the utility owner's intent to start utility adjustment work within the vicinity of a proposed primary road project. The utility owner is to also notify the department immediately upon completion of the work.

761—115.24(306A) Miscellaneous adjustment provisions.

115.24(1) *Work plan compliance.* The utility owner is to complete its utility adjustment work within the time frame of the work plan approved by the department. Upon completion of the work, the utility owner is to certify to the department that the adjustment of the utility owner's utility facilities is in accordance with the accepted work plan. The utility owner is to submit an as-built plan in accordance with department specifications.

115.24(2) *Work plan changes.* If a utility owner needs to change its work plan after its adjustment work begins, the utility owner shall notify the department. Once the department approves a modified work plan, the utility owner may make the necessary changes and perform the work.

115.24(3) *Cost allocation.*

a. If the department requires the adjustment of a utility facility that was originally determined, per the notice and work plan processes, to not need adjustment:

(1) The utility owner will bear the cost of the adjustment if the work is otherwise not reimbursable.

(2) The department will bear the reasonable cost of the adjustment if the work is otherwise reimbursable.

b. If the department requires additional adjustment to a utility facility after the utility facility has been adjusted in accordance with a work plan accepted by the department, the department will bear the reasonable cost of the additional work. This applies to all utility facilities, whether the original adjustment work was reimbursable or not reimbursable.

c. The utility owner will bear the cost of additional adjustment work performed after its utility facilities have been adjusted in accordance with a work plan accepted by the department if the additional work is due to the utility owner's error.

115.24(4) *Failure to comply with these rules, to provide an acceptable work plan, or to adjust utility facilities.* If a utility owner fails to comply with these rules, fails to provide an acceptable work plan per subrule 115.22(5), fails to comply with the accepted work plan, or fails to complete the adjustment of its utility facilities in accordance with the accepted work plan, and its failure results in a delay to the primary road project or causes damages to be incurred by the department or the department's contractor, the utility owner is liable for all costs and damages incurred as a result of its failure. In addition to any other remedy that may exist at law, in equity, or under these rules, the department may

initiate noncompliance procedures per subrule 115.3(11) for failure to comply with the requirements of these rules.

These rules are intended to implement Iowa Code chapters 306A and 318 and sections 306.3, 306.47, 314.20, 320.4 through 320.8, and 321.1.

ARC 8593C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to vehicle registration and certificate of title and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 400, "Vehicle Registration and Certificate of Title," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 252J.8, 307.12(1) "j," 307.30, 321.20, 321.20B, 321.24, 321.34, 321.44A, 321.52, 321.69, 321.71, 321.121, 321H.4A and 435.26B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.10; 17A.10A; 17A.11; 17A.12; 17A.13; 17A.14; 17A.15; 17A.16; 17A.17; 17A.18; 17A.18A; 17A.19; 25.1; 252J.1; 252J.8; 252J.9; 307.12(1)"j"; 307.30; 321.1; 321.5; 321.8; 321.13; 321.18; 321.18A; 321.19; 321.20 as amended by 2024 Iowa Acts, House File 674, sections 1 and 2; 321.20B; 321.22; 321.23 as amended by 2024 Iowa Acts, House File 674, sections 4 and 5; 321.24 as amended by 2024 Iowa Acts, House File 2316, section 1; 321.25; 321.26; 321.30; 321.31; 321.32; 321.34; 321.37; 321.39; 321.40; 321.41; 321.42; 321.43; 321.44A; 321.45; 321.46; 321.46A; 321.47; 321.48; 321.49; 321.50 as amended by 2024 Iowa Acts, House File 674, sections 16 and 17; 321.52; 321.52A; 321.53; 321.54; 321.55; 321.67; 321.69; 321.70; 321.71; 321.92; 321.101; 321.101A; 321.102; 321.103; 321.104; 321.105; 321.105A; 321.106; 321.109; 321.111; 321.116; 321.117; 321.119; 321.121; 321.122; 321.123; 321.124; 321.126; 321.127; 321.128; 321.129; 321.134; 321.135; 321.153; 321.157; 321.159; 321.162; 321.166; 321.167; 321.170; 321.171; 321.466; 321.515; 321.519; 321H.4A; 321I.4; 321L.1; 322.2; 322.3; 322C.2; 322G.12; 326.15; 423.26; 435.1; 435.26; 435.26A; 435.26B; 435.27 and 633A.4604 and chapters 322, 554D and 809A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 400 in compliance with Executive Order 10. Proposed Chapter 400 provides the process allowing motor vehicle owners to register and title their vehicle in Iowa, which is required for a vehicle to be legally operated on Iowa roadways. The rules provide clarity to county treasurers, law enforcement, and the public on the application and issuance process for vehicle registration and title, as well as outlining any exemptions or specific requirements to title and register a vehicle in Iowa.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

The Department added subrule 400.2(9) to include the mailing fee for registration plates in accordance with Iowa Code section 321.105.

The Department received written comments from the Probate and Trust Law Section of the Iowa State Bar Association (ISBA). ISBA commented that it would like the Department to adopt a new process into Iowa law allowing the owner of a jointly owned vehicle to designate how the vehicle's ownership should pass upon the death of an owner, whether as tenants in common or as joint tenants with rights of survivorship. The Department responded that Iowa Code section 321.47 currently provides how a vehicle's ownership is transferred by operation of law upon the death of an owner, namely by the laws of descent and distribution. Additionally, upon researching how other property and assets are treated upon death in Iowa Code and how vehicle transfers upon death are statutorily prescribed in two neighboring states, the Department determined that ISBA's proposal would need to be accomplished via a statute change and is not something the Department currently has the authority to implement via administrative rule.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 17, 2025 9:30 to 10 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 688 969 009
January 17, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 967 150 077

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

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

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 400 and adopt the following **new** chapter in lieu thereof:

CHAPTER 400
VEHICLE REGISTRATION AND CERTIFICATE OF TITLE

761—400.1(307,321,322,554) Definitions. The definitions in Iowa Code section 321.1 are hereby made part of this chapter. In addition, the following words and phrases, when used in Iowa Code chapter 321 or this chapter, shall have the meanings respectively ascribed to them, except when the context otherwise requires.

"Certificate of title" means a document issued by the appropriate official that contains a statement of the owner's title, the name and address of the owner, a description of the vehicle, a statement of all security interests and additional information required under the laws or rules of the jurisdiction in which the document was issued, and that is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms "title certificate," "title only," and "title" are synonymous with the term "certificate of title."

"Dealer's or manufacturer's inventory" means all vehicles owned by a dealer that are being held for sale or trade and for which the dealer has a duly assigned ownership document as required by Iowa Code section 321.45.

"Driverless-capable vehicle" means the same as defined in rule 761—380.2(321).

"Electric vehicle annual registration fee" means an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle as provided in Iowa Code sections 321.116 and 321.117. Unless otherwise provided, for purposes of this chapter, any reference to a registration fee, a penalty, or a registration fee and penalty shall also include an annual registration fee, penalty, or registration fee and penalty for a battery electric or plug-in hybrid electric motor vehicle.

"Electronic" means as defined in Iowa Code section 554D.103.

"Electronic lien and title" or *"ELT"* means an information technology system authorized by the department for the purpose of providing an electronic record of the certificate of title to a security interest holder in order to subject a vehicle to an electronic lien and to allow for the submission and receipt of forms related to security interests through electronic means as described in Iowa Code section 321.50.

"Electronic record" means as defined in Iowa Code section 554D.103.

"Electronic signature" means as defined in Iowa Code section 554D.103.

"End user" means a person or entity that directly uses the services of an ERT service provider to submit an electronic application for certificate of title or registration of a vehicle.

"ERT" means the electronic registration and title program.

"ERT service provider" means a person or entity authorized by the department to submit electronic applications for certificate of title or registration of a vehicle on behalf of an end user to a county treasurer.

"Farm trailer" means a trailer used exclusively by a farmer in the conduct of the farmer's agricultural operation. The term shall not include a "semitrailer."

"Final-stage manufacturer" means as defined in Iowa Code section 322.2.

"Half-year fee" means the first semiannual installment of an annual registration fee under Iowa Code section 321.134(2) for a heavy weighted truck when the registration month is December but does not include an electric vehicle annual registration fee. The term "half-year registration" is synonymous with the term "half-year fee."

"Hearse" means a motor vehicle used exclusively to transport a deceased person.

"Lien" means an interest in a vehicle that secures payment or performance of an obligation. The term "security interest" is synonymous with the term "lien."

"Manufacturer's certificate of origin" means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. The terms "manufacturer's statement," "importer's statement or certificate," "MSO" and "MCO" are synonymous with the term "manufacturer's certificate of origin."

2. In addition to the requirements of Iowa Code section 321.45(1), the certificate shall contain a description of the vehicle that includes the make, model, style, vehicle identification number, and, if a motorized bicycle, the maximum speed.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers' certificates of origin shall conform with the American Association of Motor Vehicle Administrators (AAMVA) Appendix B: Recommended Specifications and Security Features for a Manufacturers Certificate of Origin effective 2023. This requirement does not apply to trailer-type vehicles.

"Model year," except where otherwise specified, means the year certified by the manufacturer. For purposes of titling and registration, the model year shall advance one year each January 1.

"Registered" means that the appropriate registration fee has been paid for a vehicle and a registration receipt evidencing payment has been issued to the owner.

"Registration receipt" means a document issued to the owner of a vehicle by the appropriate agency whose duty it is to register vehicles, that contains the name and address of the owner and a description of the vehicle, and that is issued to the owner when the vehicle has been registered. The terms "registration card" and "registration certificate" are synonymous with the term "registration receipt."

"Security interest" means an interest in a vehicle that secures payment or performance of an obligation. The term "lien" is synonymous with the term "security interest."

"Signature" unless otherwise specified shall include a signature in ink or an electronic signature as provided in Iowa Code section 554D.103(8). A requirement to sign a document unless otherwise specified shall allow for a signature in ink or an electronic signature.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"*; 321.1; 321.8; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23; 321.24; 321.40; 321.45; 321.50; 321.116; 321.117; 321.123; 321.134; 321.157 and 322.2 and chapter 554D.

761—400.2(307,321,322) Vehicle registration, certificate of title, receipt, validation sticker and registration plates—general provisions.

400.2(1) *Vehicles subject to registration.*

a. A vehicle subject to registration under the laws of Iowa shall be required to be registered from the time the vehicle is first operated or moved upon a highway in this state.

b. The department shall not register the following:

(1) An all-terrain vehicle.

(2) A vehicle built on or after January 1, 1968, unless it was manufactured primarily for use on public streets, roads and highways except a vehicle operated exclusively by a person with a disability, which may be registered if the department, in its discretion, determines that the vehicle is not in an unsafe condition. This subparagraph does not apply to a vehicle that is specially constructed, a reconstructed street rod or a replica vehicle as defined in Iowa Code section 321.1.

400.2(2) *Vehicles exempt from titling or registration.* No certificate of title will be issued for a vehicle that is exempt from the titling or registration provisions of Iowa Code chapter 321 unless issuance of a certificate of title is specifically authorized in Iowa Code chapter 321 or as provided in 761—Chapter 410.

400.2(3) *Issuance of a certificate of title, receipt, validation sticker and registration plates upon payment of registration fees.* Except as otherwise provided in Iowa Code chapter 321 or this chapter, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title, receipt, validation sticker and registration plates.

400.2(4) *Trailers with an empty weight of 2,000 pounds or less.* No certificate of title will be issued for trailers with an empty weight of 2,000 pounds or less.

400.2(5) *Vehicles owned by the government.* A certificate of title shall be issued for a vehicle owned by the government that is otherwise required to be titled. However, vehicles owned by the government are exempted from registration and titling fees.

400.2(6) *Vehicles leased by the government.* Vehicles leased by the government for a period of 60 days or more are exempted from payment of registration fees. A copy of the lease agreement, certificate of lease, or other evidence that the vehicle is being leased by the government shall be required. However, the lessor is not exempted from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321 and these rules, including payment of the appropriate certificate of title fee.

400.2(7) *Private school buses, fire trucks, authorized emergency vehicles, and transit buses.* In accordance with Iowa Code sections 321.18, 321.19 and 321.22, private school buses, fire trucks not owned or operated for a pecuniary profit, certain authorized emergency vehicles owned and operated by nonprofit organizations, and urban and regional transit system buses are exempt from the payment of registration fees. However, these vehicles are not exempt from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321, including payment of the appropriate certificate of title fee.

400.2(8) *Plates for exempted vehicles.* The department, upon application, issues plates for exempted vehicles under subrules 400.2(5), 400.2(6) and 400.2(7) in accordance with the requirements in Iowa Code sections 321.18, 321.19, 321.22 and 321.170, as applicable, and this chapter. As authorized by Iowa Code sections 8A.361 and 8A.362(7), the department of administrative services may order the issuance of regular registration plates for exempted vehicles assigned to the department of administrative services. The following process applies to regular registration plates issued to an exempted vehicle under Iowa Code section 321.19(1)*"c"*:

a. The requesting agency under Iowa Code section 321.19(1)*"c,"* other than the department of administrative services, files an application with the department in the form and manner prescribed by the department and certifies the authorized purpose for which issuance of the registration plates for an exempted vehicle is requested.

b. The plates shall be assigned to a specific vehicle. The requesting agency shall notify the department within ten days of assigning the plates to another vehicle.

c. In accordance with Iowa Code section 321.19, the department maintains separate records of regular registration plates issued to exempted vehicles, which are available in a manner that allows law enforcement and other persons authorized by Iowa Code section 321.11(3) to query vehicle and owner information by the registration plate number.

d. If a vehicle to which regular registration plates are assigned under this subrule is no longer used for an exempted purpose, the requesting agency shall surrender the plates to the department and the department will cancel the plates. The department may revoke the plates and require the agency to surrender the plates pursuant to Iowa Code section 321.103 if the department determines use of the plates is no longer authorized.

400.2(9) *Registration plates mailing fee.* Pursuant to Iowa Code section 321.105, the mailing fee for registration plates is $5.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.18 through 321.20B, 321.22, 321.24, 321.34, 321.103, 321.105, 321.123, 321.170, 321I.4 and 322C.2(19).

761—400.3(321,322,423) Application for certificate of title or registration for a vehicle.

400.3(1) *Application form.* To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department, which may be electronic. In addition to the information required in Iowa Code section 321.20, the application shall include:

a. The plate number and plate type if the owner has registration plates that have been assigned to the owner and transferred to the vehicle.

b. The vehicle owner's month of birth, if applicable, subject to the following:

(1) If the vehicle is owned by one individual, the individual's month of birth determines the registration year.

(2) If the vehicle is owned by two or three individuals, the county treasurer selects the month of birth of one of the individuals to determine the registration year.

(3) If the vehicle is owned by a partnership, corporation, association, or governmental subdivision, the county treasurer selects the month to determine the registration year.

c. The model year of the vehicle.

d. The purchase or acquisition date and the purchase price.

e. The vehicle color. If the color is not already listed in the department's vehicle registration and titling system, then the county treasurer selects the color that most closely matches the application.

f. The date the vehicle was brought into Iowa, if the vehicle was registered in a foreign jurisdiction.

g. The owner's signature. If there are two or more owners, all owner signatures. The definition of "signature" in Iowa Code section 9B.2(15) applies.

h. If the vehicle has been sold to the owner by a dealer as defined in Iowa Code section 321.1 and the dealer collects the fees and forwards the application form under Iowa Code section 321.25(1), a dealer certification containing the dealer's number and signed by the dealer or an authorized representative of the dealer, including signature by electronic means, containing the following information:

(1) Sale price of the vehicle.

(2) The amounts allowed for property traded in.

(3) Nontaxable charges and rebates.

(4) The tax price of the vehicle.

(5) The date that a "Registration Applied For" card was issued, and the registration fee collected.

i. If an application is being made to lower the tonnage on any motor truck, bus or truck tractor, the county treasurer may require a copy of a stamped weigh ticket issued by any public scale.

j. If leased, the lease price of the vehicle and the lessor's leasing license number if the entity is required to have a leasing license. A federal employer identification number is not required to be listed for an entity with a leasing license number.

k. If requested by the department, whether the vehicle is a driverless-capable vehicle as defined in rule 761—380.2(321). The department may also use a separate form to assess the vehicle's driverless capability.

400.3(2) *Information about owner, lessee and primary user.* A firm, association, corporation, or trust that is not required to have a federal employer identification number shall disclose the social security number, Iowa driver's license number or Iowa nonoperator's identification card number of an authorized representative of the firm, association, corporation, or trust. The authorized representative of a trust is the trustee unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604.

400.3(3) *Affidavit of correction.* As provided in Iowa Code section 321.23A, the county treasurer or the department may accept an affidavit of correction on a form prescribed by the department.

a. The affidavit may be used only to correct those errors, erasures or alterations listed on the affidavit.

b. The affidavit must be signed by the parties that made the error, erasure or alteration.

c. The affidavit must be surrendered with the document that contains the error, erasure or alteration.

d. The affidavit may be accepted to correct errors, erasures or alterations on either an Iowa title or a foreign title.

400.3(4) *Electronic applications.* The department will authorize electronic submission of applications for certificate of title and registration by an authorized ERT service provider pursuant to the authority in Iowa Code section 321.20(2). To be authorized to serve as an ERT service provider, the ERT service provider must comply with the department's ERT policy and execute a provider agreement with the department.

a. An application submitted electronically must meet all legal requirements for the applicable transaction, and no requirement is excused or waived as a result of submitting the transaction electronically. However, wherever a signature is required, the signature may be an electronic signature. Wherever an electronic solution approved by the department requires the submission of scanned documents, the scanned documents shall be of a quality and resolution determined by the department. The department and any county treasurer processing an application retain the right under Iowa Code sections 321.13 and 321.30 to determine the genuineness, regularity, and legality of the application and any scanned document submitted as part of the application and may withhold approval of the application and require presentation of the original document whenever the scanned document is of insufficient quality, content, or appearance. An end user shall retain all such documents for a period of six months from the date of submission of the application by the end user and make all such documents available for inspection by the department upon request. Anything in this paragraph notwithstanding, lessors required to retain a damage disclosure statement under Iowa Code section 321.69(4), and authorized vehicle recyclers licensed under Iowa Code chapter 321H and motor vehicle dealers licensed under Iowa Code chapter 322 required to retain damage disclosure statements under Iowa Code section 321.69(6) shall retain the original document for a period of five years from the date of the statement as required therein.

b. An end user that electronically submits an application on behalf of the owner or owners to whom the end user is transferring or delivering the vehicle shall disclose to all owners or, if there is more than one owner and the title application uses "or" between the names of the owners, at least one owner, that the application will be submitted electronically and shall obtain written authorization from all owners, or if there is more than one owner and the title application uses "or" between the names of the owners, written authorization from at least one owner, to submit the application on the owner's behalf. The written authorization shall be retained by the end user for a period of six months from the date of application and be made available for the department's inspection upon request. Before submitting the application, the end user shall review and disclose to the owner or owners all details of the application and provide a complete, true, and accurate copy of the application to the owner or owners immediately after submitting the application. The written authorization shall be submitted in the form and manner required by the department.

This rule is intended to implement Iowa Code sections 321.1; 321.8; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23 through 321.26; 321.31; 321.34; 321.46; 321.105A; 321.109; 321.122; 321.515; 321.519 and 423.26.

761—400.4(321,322,633A) Supporting documents and processing requirements.

400.4(1) *New vehicle.* An application for a new vehicle must be accompanied by a manufacturer's certificate of origin, properly assigned to the applicant. A manufacturer's certificate of origin is not acceptable if the assignment to the applicant is made by any person other than the manufacturer, importer or distributor, a licensed motor vehicle dealer franchised to sell that line-make of vehicle, or a final-stage manufacturer motor vehicle dealer licensed under rule 761—425.11(322).

a. The first person, including a dealer not franchised to sell that line-make of vehicle, who is assigned the manufacturer's certificate of origin shall obtain a certificate of title and register the vehicle.

b. An uncanceled security interest noted on the reverse side of a manufacturer's certificate of origin (MCO) shall be noted as a separate security interest on the certificate of title, in addition to any security interest acknowledged by the applicant, unless the security interest acknowledged by the applicant is the same as the one noted on the reverse side of the MCO.

c. For a 1980 or subsequent model year vehicle manufactured by a person other than the original manufacturer, both the original manufacturer's certificate of origin and the final-stage manufacturer's certificate of origin shall be submitted if the vehicle's original line-make is changed by the final-stage manufacturer. The final-stage manufacturer's certificate of origin shall contain all assignments or reassignments of ownership of the vehicle and list the original manufacturer's vehicle identification number. The face of the original manufacturer's certificate of origin is to be stamped in bold type with the statement: "Final-stage manufacturer's MCO has been issued on this vehicle."

d. If a final-stage manufacturer is a motor vehicle dealer licensed under rule 761—425.11(322), the final-stage manufacturer may reassign the original manufacturer's certificate of origin or an incomplete or intermediate MCO to the retail buyer.

400.4(2) *Used vehicle registered or titled in this state.* The last issued certificate of title, properly assigned to the applicant, shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4). An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

400.4(3) *Used vehicle from a foreign jurisdiction.* If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4).

a. A security interest, noted on the face of the foreign certificate of title, which has not been canceled, shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant.

b. A certificate of title issued in a foreign jurisdiction may be assigned to a motor vehicle dealer in another jurisdiction, and the dealer may reassign the certificate of title to the applicant. Unless a regulation of the foreign jurisdiction provides otherwise, an assignment or reassignment form issued by any foreign jurisdiction may be used with any foreign title to complete an assignment or reassignment of ownership from a foreign motor vehicle dealer to the applicant, provided the ownership chain is complete.

c. An Iowa licensed motor vehicle dealer who acquires a vehicle registered in a foreign jurisdiction may reassign the foreign certificate of title to the applicant as provided in Iowa Code section 321.48(2) and rule 761—400.24(321,322).

d. A person who registers a foreign vehicle under Iowa Code section 321.23(3) will be issued a nontransferable-nonnegotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as provided in Iowa Code section 321.23(3) when ownership is transferred to an Iowa licensed motor vehicle dealer or an insurance carrier authorized to do business in Iowa.

e. If the vehicle was not subject to the issuance of a certificate of title but was registered in the foreign jurisdiction, the registration document issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

(1) If the foreign registration document is not issued in the applicant's name and does not contain an assignment of ownership form, a bill of sale conveying ownership from the owner as listed on the foreign registration document to the applicant shall be submitted with the foreign registration document.

(2) Upon receipt of the foreign registration document, the county treasurer shall issue a nontransferable—nonnegotiable registration unless the foreign registration document has been approved by the department.

(3) Acceptance of the foreign registration document is determined by the department on an individual basis, if the county treasurer of the county where the certificate of title is to be issued cannot determine whether the document is acceptable.

f. If a trailer weighing 2,000 lbs. or less is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, a bill of sale conveying ownership to the applicant, if acquired by a resident from a nonresident, or an affidavit of ownership signed by the applicant, if the applicant is establishing residence in this state, shall be submitted.

g. If a motor vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, the bonding procedures as provided in Iowa Code section 321.24 shall be followed.

400.4(4) *Used vehicle acquired by a resident of this state from a federal government agency.* If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the

government bill of sale, General Services Administration Form 97, or Internal Revenue Service Form 2435, properly assigned to the applicant.

400.4(5) *Manufactured or mobile home.* If the vehicle described on the application is a manufactured or mobile home with an Iowa title, the applicant shall submit a tax clearance form to show that no taxes are owing, unless the title has been issued to a manufactured or mobile home retailer licensed under Iowa Code chapter 103A. The form may be obtained by any owner of record of the manufactured or mobile home from the county treasurer.

400.4(6) *Vehicle acquired by a resident of this state by operation of law.* Iowa Code section 321.47 applies to a vehicle acquired by the applicant by operation of law under the conditions specified in Iowa Code section 321.47. Acceptable proof of ownership includes but is not limited to a foreclosure sale affidavit, artisan's or storage lien affidavit, affidavit of death testate or intestate, abandoned vehicle sales receipt, peace officer's bill of sale or court order.

400.4(7) *Foreign ownership document issued in a language other than English.* The county treasurer may require an applicant to produce a written English translation of a foreign ownership document or other supporting document issued in a language other than English.

400.4(8) *Titles from foreign jurisdictions.*

a. Except as provided in paragraph 400.4(8)*"b,"* the department will not accept a certificate of title issued by a foreign jurisdiction if the title or assignments thereon contain an alteration or erasure.

b. An affidavit of correction form issued by a foreign jurisdiction that corrects the certificate of title issued by the same foreign jurisdiction will be accepted only for the reason listed on the affidavit of correction form. However, acceptance of an affidavit of correction form that corrects an odometer statement or a designation will be determined by the department on an individual basis.

400.4(9) *Applications in the name of trusts.* An application in the name of a trust must be accompanied by a copy of all documents specifying the required signatories of the trust or by the certification of trust as defined in Iowa Code section 633A.4604. A certification of trust must meet the requirements of Iowa Code section 633A.4604, including but not limited to providing the names of all the currently acting trustees. If there are two or more currently acting trustees, the certification of trust must state whether the trustees may act individually, whether the trustees must act by majority decision or whether the trustees must act by unanimous decision. If the certification of trust does not meet said requirements, the certification of trust will be considered invalid for the purposes of the application. Each signature on the application shall be followed by the words "as trustee."

400.4(10) *Driverless-capable vehicles.* If an application is made for a driverless-capable vehicle, the department may require the application to be accompanied by the operational design domain.

This rule is intended to implement Iowa Code sections 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23; 321.24; 321.30; 321.31; 321.45 through 321.50; 321.67; 321.515; 321.519; 322.3 and 633A.4604.

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) Application shall be made to the department's motor vehicle division for the following:

a. Titling and registration of vehicles owned by the government. This requirement does not apply to manufactured or mobile homes subject to a public bidder sale as explained in Iowa Code section 321.46(2).

b. Registration of vehicles exempted under Iowa Code section 321.19.

c. Registration of private school buses.

d. Registration of vehicles under the provisions of Iowa Code section 321.23(4), relating to restricted-use vehicles.

e. Registration of apportioned vehicles under Iowa Code chapter 326. More information contained in 761—Chapter 500.

400.5(2) Application for a certificate of title for a vehicle subject to apportioned registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department's motor vehicle division.

This rule is intended to implement Iowa Code sections 321.18; 321.91; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.22; 321.23; 321.46(2) and 321.170.

761—400.6(307,321) Addresses, information and forms. Assistance under this chapter is available as follows:

400.6(1) Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 through 321.20B, 321.22 through 321.26, 321.28 through 321.32, 321.34, 321.35, 321.37 through 321.63, 321.65 through 321.74, 321.78, 321.79, 321.81, 321.84 through 321.106, 321.109 through 321.113, 321.115 through 321.117, 321.119 through 321.135, 321.145, 321.148 through 321.162 and 321.165 through 321.171 may be obtained from the county treasurer or by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; by telephone at 515.237.3110; or on the department's website at www.iowadot.gov.

400.6(2) Information for investigations under this chapter may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; or on the department's website at www.iowadot.gov/biip/home.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and section 321.20 as amended by 2024 Iowa Acts, House File 674, section 2.

761—400.7(307,321) Information appearing on title or registration. In addition to the requirements of Iowa Code sections 321.24, 321.52, 321.69, 321.71 and 322G.12, a certificate of title or registration receipt or both shall contain the following information when applicable:

400.7(1) Registration expiration date.

400.7(2) Registration month, as explained in rule 761—400.3(321).

400.7(3) Description of the vehicle, including the following items. These items may be represented on the title and registration by code letters or numbers.

a. Vehicle identification number.

b. Type, such as automobile, trailer, truck, etc.

c. Make, model, and model year.

d. Color.

e. Weight and registered gross weight.

f. The square footage of floor space of a manufactured or mobile home or travel trailer as determined by measuring the exterior.

g. The odometer mileage and whether the mileage is "actual," "not actual," or "exceeds mechanical limits."

400.7(4) Previous Iowa title number or the name of the foreign jurisdiction if the previous title is a foreign title.

400.7(5) Plate number.

400.7(6) List price or value.

400.7(7) Penalties and title, registration and security interest receipt numbers.

400.7(8) The following phrase stamped on the reassignment portion of a manufactured or mobile home title: "Dealer reassignment not authorized on this certificate of title."

400.7(9) The designation required by 761—Chapter 405. A vehicle may have no more than one designation.

400.7(10) Full legal name of owner.

a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall apply for a replacement registration receipt and submit to the county treasurer one of the following documents:

(1) Court order for a name change. The court order must contain the full name, date of birth, and court seal.

(2) Divorce decree.

(3) Marriage certificate.

b. This subrule does not apply to owners that are firms, associations, corporations, or trusts.

400.7(11) Driverless-capable vehicle indicator, which may also indicate whether operational restrictions exist.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.24, 321.31, 321.40, 321.45, 321.52, 321.69, 321.71, 321.124, 321.515, 321.519 and 322G.12.

761—400.8(307,321) Release form for cancellation of security interest.

400.8(1) A secured party may note the cancellation of a security interest on any of the following:

a. Form 411168 (Cancellation of Security Interest).

b. The secured party's letterhead if the written statement is notarized and contains the same information as Form 411168.

c. The certificate of title containing the cancellation pursuant to Iowa Code section 321.50(5)*"a."*

400.8(2) The secured party shall forward the cancellation form or statement to the county treasurer or to the department if the title was issued by the department. The county treasurer or department may accept facsimiles or photocopies. A separate form or statement is required for each vehicle.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16.

761—400.9(307,321) Assignment of security interest. A security interest noted on a certificate of title may be assigned to another secured party without losing the seniority of the security interest by complying with the procedure in Iowa Code section 321.50 or with the following procedure:

400.9(1) *Notice of assignment.* In the cancellation portion of the title certificate, the secured party listed on the title certificate shall make the notation "Assigned to (name of assignee)" where the security interest is noted and include the date, name of secured party and signature of the person noting the assignment.

400.9(2) *Application for notation of security interest.* The assignee shall complete, and sign in the space where the signature of the owner is ordinarily required, Form 411046 (Application for Notation of a Security Interest).

400.9(3) *Submission of documents to county treasurer.* The certificate of title, application for notation of security interest and appropriate notation fee shall be submitted to the county treasurer.

a. If there are additional security interests noted on the certificate of title, the seniority of the assignee's security interest may be preserved by issuance of a certificate of title in lieu of the original, on which the assignee's security interest will be noted in the same seniority as the assignor's security interest.

b. A receipt for notation of security interest form processed by a county treasurer shall list the following:

(1) A new receipt number.

(2) The original notation date.

(3) The words "by assignment" following the name of the assignee.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16.

761—400.10(307,321,809A) Sheriff's levy, restitution lien, and forfeiture lien noted as security interests.

400.10(1) A sheriff's levy may be noted as a security interest on a certificate of title by completing Form 411046. The sheriff or sheriff's deputy shall sign the application in the space where the signature of the owner is ordinarily required and submit with the appropriate notation fee to the county treasurer.

400.10(2) A restitution or forfeiture lien may be noted as a security interest on a certificate of title by completing Form 411046. The county attorney or the county attorney's designee shall sign the application in the space where the signature of the owner is ordinarily required and submit to the county treasurer.

This rule is intended to implement Iowa Code section 307.12(1)*"j"*; section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16; and chapter 809A.

761—400.11(307,321) Replacement certificate of title. Application for a replacement certificate of title shall be made on Form 411033 (Application for Replacement of Iowa Certificate of Title to a Motor Vehicle). All living owners of the vehicle as listed on the certificate of title shall sign Form 411033 unless the application is made by a lienholder. If all owners are deceased, a court-appointed executor or administrator may complete, sign, and submit Form 411033 along with a certified copy of the court order or the letter of appointment confirming executor or administrator status.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.42.

761—400.12(321) Bond required before title issued.

400.12(1) *Procedures.* An applicant for a certificate of title who cannot provide the supporting documents required in rule 761—400.4(321) is required to comply with the procedure under Iowa Code section 321.24(11) as amended by 2024 Iowa Acts, House File 2316, section 1, in addition to this rule.

a. The applicant shall submit a bond application and supporting material to the motor vehicle division on a form prescribed by the department.

b. The department will search the department's vehicle title and registration system to determine if there is an owner of record or security interest for the vehicle and if the vehicle has been reported stolen or embezzled.

(1) If an owner of record is found, the department will mail a release letter by first-class mail to the owner of record at the owner's last-known address notifying the owner of the right to claim ownership of the vehicle or to waive all rights or claims.

(2) If the owner of record makes a claim, the motor vehicle division will review the claim.

(3) If the department receives no response from the owner of record within ten days after the date of mailing, the owner of record waives all rights or claims; or if the letter is returned as undeliverable, the department will continue processing the bond application.

(4) If one or more security interests are found and can be identified, the department will send a certified letter and application for cancellation of security interest to a lienholder at the last-known address of that lienholder. If a lienholder releases the lien, the department will continue to process the application. If a lienholder responds with a request to claim the vehicle, the department will review the claim. If the certified letter is returned as undeliverable, the department will continue to process the application.

(5) If one or more security interests is found but a lienholder cannot be identified because the record is held by another jurisdiction, the department will return the application to the applicant and inform the applicant which jurisdiction holds the record(s) to the vehicle.

c. If the department determines that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department is authorized to determine the current value of the vehicle and notify the applicant to deposit cash or file a surety bond with the department in an amount equal to one and one-half times the current value of the vehicle.

d. A motor vehicle investigator of the department may verify information in the application, examine the vehicle, and authorize the county treasurer to issue a title for and register the vehicle. An investigator may require the applicant to drive the vehicle to and from the examination location upon completing Form 420054, Affidavit to Operate a Vehicle for Inspection. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator may authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator will also affix an assigned vehicle identification number to the vehicle.

400.12(2) *Denial.* If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, or that there is an unsatisfied security interest, then the department will not authorize issuance of a certificate of title or registration receipt and will notify the applicant in writing of the reason(s).

400.12(3) *Junked vehicle.* A certificate of title will not be reinstated for a vehicle that has been issued a junking certificate unless the junking certificate was issued in error, as explained in rule 761—400.23(321), or the vehicle qualifies as an antique vehicle under Iowa Code section 321.115(1).

This rule is intended to implement Iowa Code section 321.24 as amended by 2024 Iowa Acts, House File 2316, section 1, and section 321.52.

761—400.13(307,321) Authorized signatories for a transfer of ownership. The following procedures shall apply for all titling and registration purposes:

400.13(1) *Transfer of vehicle owned by two or three persons.* If the names of the owners of a vehicle on the certificate of title, the manufacturer's certificate of origin, or the registration receipt for a vehicle that does not require a title are joined by the word "or," as in "John Doe, Jane Doe or Mary Doe," then the signature of any of these owners is sufficient to transfer ownership or to junk the vehicle. In all other cases the signature of each named owner is required.

400.13(2) *Assignment of title to two or three persons.* If a certificate of title, a manufacturer's certificate of origin, or a bill of sale for a vehicle that does not require a title is assigned to two or three persons with their names joined by the word "or," as in "John Doe, Jane Doe or Mary Doe," then a certificate of title or registration receipt for a vehicle that does not require a title may be issued to any one of these persons, or to any two or all three of these persons with their names joined by the word "or." However, a certificate of title or registration for a vehicle that does not require a title shall only be issued to persons who have signed the application for title and registration.

400.13(3) *Organizational ownership.*

a. When a vehicle is owned by a partnership, corporation, association, governmental unit, or private organization, the signature of its authorized representative is required.

b. When a vehicle is owned by a trust, the title shall be accompanied by a copy of all documents creating or otherwise affecting the trust or by the certification of trust as defined in Iowa Code section 633A.4604.

(1) The certification of trust may be signed by any trustee or the attorney for any trustee.

(2) The title shall be signed by the number of trustees as specified in the trust agreement, and the transferor shall provide the department with the document or the certification of trust specifying the required signatories for the trust.

(3) If a certification of trust is provided, one of the following shall apply:

1. Any currently acting trustee may sign the title if the certification of trust states that such trustee may act individually.

2. A majority of the trustees must sign the title if the certification of trust states that the trustees must act by majority decision.

3. All currently acting trustees must sign the title if the certification of trust states that the trustees must act by unanimous decision.

(4) A certification of trust must meet the requirements of Iowa Code section 633A.4604, including but not limited to providing the names of all the currently acting trustees. If there are two or more currently acting trustees, the certification of trust must state whether the trustees may act individually, whether the trustees must act by majority decision or whether the trustees must act by unanimous decision. If the certification of trust does not meet said requirement, the certification of trust will be considered invalid for the purposes of the transfer.

(5) Each signature on the title shall be followed by the words "as trustee."

400.13(4) *Death with a will.* When ownership is transferred according to a decedent's will, a certified copy of the court order or the letter of appointment appointing the person assigning the title as executor of the will shall be required.

400.13(5) *Death without a will.* When ownership is transferred from a decedent without a will and there is no administration of the estate, a notarized affidavit of death intestate form shall be required. When ownership is transferred from a decedent without a will but there is an administration of the estate, a copy of the court order or the letter of appointment appointing the person assigning the title as administrator shall be required.

400.13(6) *Power of attorney.* An attorney in fact may act for the living owner(s) if the appointment is shown on a power of attorney form. Power of attorney forms are available from the department, but other forms or a certified true copy may be accepted if they contain all necessary information.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.20, 321.24, 321.45, 321.47, 321.49, 321.67 and 633A.4604.

761—400.14(307,321) Cancellation of a certificate of title.

400.14(1) The department will cancel a certificate of title when authorized by any provision of law or when it has reasonable grounds to believe that the person holding the certificate of title, purportedly issued for the vehicle, has no immediate right to possession of the vehicle.

400.14(2) The decision to take any action regarding ownership of the vehicle for which the current title has been canceled will be determined after an investigation and recommendation by a motor vehicle investigator of the department.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.101.

761—400.15(307,321) Application for certificate of title or original registration for a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle.

400.15(1) *Definitions applicable to this rule.*

a. "Ownership document for the vehicle" means the certificate of title, the manufacturer's certificate of origin, the junking certificate, or other evidence of ownership acceptable to the department.

b. "Ownership documents for essential parts" means bills of sale for all essential parts used to construct or reconstruct the vehicle. Each bill of sale shall contain a description of the part, the manufacturer's identification number of the part, if any, and the name, address, and telephone number of the seller.

400.15(2) *Procedures.* This subrule describes the procedures for obtaining department approval to title and register a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall apply to the county treasurer for a certificate of title and registration. The county treasurer, upon receiving an application that indicates the vehicle is specially constructed, reconstructed, a street rod or a replica vehicle, shall forward the application to a motor vehicle investigator of the department.

b. The investigator will contact the applicant and schedule a time and place for an examination of the vehicle and the ownership documents. An investigator may require the applicant to drive or tow the vehicle to and from the examination location upon the applicant's completion of Form 420054. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, autocycles, trucks, truck tractors, road tractors or trailer-type vehicles.

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator will approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator will authorize the county treasurer to issue a title and registration for the vehicle.

(2) If the vehicle is a passenger-type motor vehicle, the department is authorized to determine its weight and value and if the vehicle is subject to the electric vehicle annual registration fee. The vehicle weight shall be fixed as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

(3) The applicant shall then submit the ownership document for the vehicle to the county treasurer and continue with the regular title and registration process.

400.15(3) *Disapproval.* If the department determines that the vehicle does not comply with 761—Chapter 450, that the integral parts or components have not been identified as to ownership, or that the application has not been completed properly, then the department will not approve the vehicle for titling and registration.

400.15(4) *Model year.* The model year of a specially constructed or reconstructed motor vehicle is the year the vehicle is approved by the department as a specially constructed or reconstructed motor vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"*; 321.20; 321.23 as amended by 2024 Iowa Acts, House File 674, section 4; 321.24; 321.52; 321.109; 321.116; 321.117 and 321.162.

761—400.16(307,321) Temporary use of vehicle without plates or registration receipt.

400.16(1) *Temporary use of vehicle without plates.* A person who acquires a vehicle that is currently registered or in a dealer's inventory at the time of sale and who does not possess registration plates that may be assigned to and displayed on the vehicle may operate or permit the operation of the vehicle not to exceed 30 days from the date of purchase or transfer without registration plates displayed thereon, if ownership evidence is carried in the vehicle.

400.16(2) *Temporary use of vehicle without registration receipt.* A person who acquires a vehicle that is currently registered or in a dealer's inventory at the time of sale and who has possession of plates which may be attached to the vehicle acquired may operate or permit the operation of the vehicle not to exceed 45 days from the date of delivery or transfer without a registration receipt, if ownership evidence is carried in the vehicle.

400.16(3) *Ownership evidence.* Ownership evidence under this rule shall consist of the certificate of title or registration receipt, or a photocopy thereof, properly assigned to the person who has acquired the vehicle, or a bill of sale conveying ownership of the vehicle to the person who has acquired the vehicle. The ownership evidence shall be shown to any peace officer upon request.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.25 and 321.46.

761—400.17(307,321) Registration of motor vehicle weighing 55,000 pounds or more. When applying for registration or renewal of registration for a motor vehicle weighing 55,000 pounds or more, the owner shall present to the department or to the county treasurer proof of compliance with the federal heavy vehicle use tax required by 26 CFR Part 41 in effect as of April 1, 2021.

400.17(1) If the motor vehicle is used exclusively in the transportation of harvested forest products, the owner may present a written statement certifying that usage and the usage will be recorded.

400.17(2) If the motor vehicle is used primarily for farming purposes, the owner may present a written statement certifying that usage and the usage will be recorded.

This rule is intended to implement Iowa Code section 307.30 and section 321.20 as amended by 2024 Iowa Acts, House File 674, sections 1 and 2.

761—400.18(307,321) Registration of vehicles on a restricted basis. The department may register a vehicle that does not meet the equipment requirements of Iowa Code chapter 321, due to the particular use for which it is designed or intended, or which is a driverless-capable vehicle as defined in rule 761—380.2(321). Registration may be accomplished upon payment of the appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition.

400.18(1) Operation of the vehicle may be restricted to a roadway to which a specific lawful speed limit applies, as specified in Iowa Code section 321.285, if the maximum speed of the vehicle is such that the operation of the vehicle would impede or block the normal and reasonable movement of traffic.

400.18(2) The department may also restrict the operation of the vehicle to daylight hours if operation of the vehicle during hours other than daylight would create a hazard.

400.18(3) The department will issue a certificate of restriction in conjunction with registration of the vehicle, listing the restrictions that apply to the operation of the vehicle.

a. Registration laws applicable to motor vehicles in general shall also apply to vehicles registered under a restricted registration.

b. The department may approve exceptions to those equipment requirements of Iowa Code chapter 321 which cannot be met due to the particular use for which the vehicle is designed or intended.

400.18(4) When a vehicle registered in this state is modified to make it a driverless-capable vehicle as defined in rule 761—380.2(321), the person in whose name the vehicle is registered shall within 30 days notify the department upon a form prescribed by the department.

400.18(5) As provided in Iowa Code sections 321.515 and 321.519, the department may restrict the operations of a driverless-capable vehicle registered in this state or another state but that operates in this state. The restrictions may include but are not limited to the restrictions provided in subrules 400.18(1) and 400.18(2) and any operational restrictions based on a specific functional highway classification, weather conditions, days of the week, times of day, and other elements of operational design while the automated driving system is engaged. The department may require the vehicle owner to submit to the department the automated driving system's intended operational design domain for the vehicle on a form prescribed by the department. The department may evaluate the automated driving system's intended operational design domain for the vehicle. The department may establish additional operational restrictions to ensure safe operation of the vehicle. The department shall issue a certificate of restriction as provided in subrule 400.18(3) for any restriction established under this subrule, and the certificate shall be carried in the vehicle and made available for inspection by any peace officer upon request.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.1, 321.23(4), 321.30(2), 321.101(1), 321.515 and 321.519.

761—400.19(307,321) Transfers of ownership by operation of law. For a vehicle transferred by operation of law under Iowa Code section 321.47 that is not currently registered in this state, the registration fee and penalties due shall be computed as follows:

400.19(1) If the vehicle is ordered confiscated or forfeited by a court under a judgment or forfeiture, the fee shall be computed on the remaining unexpired months in the registration year from the date of the court order.

400.19(2) If the vehicle is sold on a peace officer's bill of sale as an unclaimed, stolen, embezzled or abandoned vehicle, or as a vehicle seized under Iowa Code section 321.84, the fee shall be computed on the remaining unexpired months in the registration year from the date of the sale.

400.19(3) If the vehicle is sold or transferred under a judgment or order entered by a court in a civil action or proceeding, or is transferred under any provision of Iowa Code section 321.47 that is not covered in this subrule, the fee shall include any delinquent fees that have accrued during previous registration periods and accrued penalties. Penalties shall continue to accrue until paid.

400.19(4) If the vehicle was last titled or registered in a foreign state, the fee shall be based on the month the vehicle becomes subject to registration in this state, except as provided in subrules 400.19(1) and (2) above.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.47, 321.105, 321.106, 321.134 and 321.135.

761—400.20(321,321H) Junked vehicle.

400.20(1) *Junking certificate.* The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate when required by Iowa Code section 321.52.

400.20(2) *Required verification.*

a. One of the following shall satisfy the required verification when a vehicle owner junks or dismantles a vehicle to a licensed vehicle recycler under Iowa Code section 321.52(2)*"b"* or 321H.4A(2)*"b"*:

(1) The owner or authorized representative provides information to the licensed vehicle recycler who acquires the vehicle, including, at a minimum, government-issued photo identification and verification of prior reporting to the National Motor Vehicle Title Information System (NMVTIS). For a subsequent transaction with the licensed vehicle recycler, the vehicle owner or authorized representative is not required to provide government-issued photo identification if the licensed vehicle recycler has

retained such information from a prior transaction. A licensed vehicle recycler is not required to report a vehicle verified under this subparagraph to the NMVTIS.

(2) The vehicle's owner is a licensed vehicle recycler or is the authorized representative of an established commercial or industrial business, operating from a fixed location, that is known to the licensed vehicle recycler to be regularly engaged in the junking or dismantling of vehicles or may reasonably be expected to produce vehicles for junking or dismantling and has entered into a written agreement with the licensed vehicle recycler confirming it has reported the vehicles to the NMVTIS. The written agreement shall, at a minimum, contain the owner's or authorized representative's name and address. A licensed vehicle recycler is not required to report a vehicle covered under an agreement under this subparagraph to the NMVTIS.

(3) The licensed vehicle recycler obtains the vehicle owner's or authorized representative's name and the vehicle identification number for the vehicle being junked or dismantled, and the vehicle recycler reports the vehicle to the NMVTIS.

b. A licensed vehicle recycler acquiring a vehicle as described under this subrule shall cooperate with a law enforcement agency during normal business hours when the agency has reason to believe that fraud has occurred in connection with the junking or dismantling of the vehicle. A law enforcement agency shall maintain the information as confidential and shall not disclose the information to a third party, except as may be necessary for the prosecution of a criminal violation.

400.20(3) *Retitling a junked vehicle.* The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate only if the department determines that the junking certificate was issued in error.

a. The reasons a junking certificate was issued in error include but are not limited to the following:

(1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.

(2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.

(3) The owner intended to apply for a salvage title under Iowa Code section 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner's original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.

b. If the department determines that the junking certificate was issued in error, the department will authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.

This rule is intended to implement Iowa Code sections 321.52 and 321H.4A.

761—400.21(307,321) Annual vehicle registration fee. The registration fee shall be computed on the month of purchase or transfer of a vehicle, except that the registration fee on a vehicle acquired outside of this state shall be based on the month that the vehicle was brought into Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.105 and 321.135.

761—400.22(307,321) Fees established by the department. If the department cannot obtain the retail list price and weight for a particular motor vehicle model registered under Iowa Code section 321.109(1), the department shall determine a list price and weight.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.109, 321.157 and 321.159.

761—400.23(321) Anatomical gift. Voluntary contributions collected by the county treasurer or the department to the anatomical gift public awareness and transplantation fund shall be a minimum of $1. The county treasurer and the department will remit contributions collected monthly to the funds specified in Iowa Code section 321.44A.

This rule is intended to implement Iowa Code section 321.44A.

761—400.24(307,321,322) Vehicles held for resale or trade by dealers. A motor vehicle dealer, as defined in Iowa Code section 321.1, is authorized to hold a motor vehicle for resale or trade under the following conditions.

400.24(1) *Assignment to dealer.* The certificate of title or manufacturer's certificate of origin for the vehicle shall be assigned to the dealer by the seller. The seller shall complete the assignment portion of the form, including the date of sale or trade and the name and address of the dealer, and shall sign the form. The date of the sale or trade shown in the assignment portion of the form shall be the date the dealer acquired the vehicle.

400.24(2) *New certificate of title and registration not required.*

a. A motor vehicle held for resale by a dealer or registered in Iowa at the time of sale or trade to a dealer may be held by that dealer without obtaining a new certificate of title or a new registration if the dealer holds for that vehicle a certificate of title or a manufacturer's certificate of origin properly assigned to the dealer.

b. A motor vehicle may also be held by a dealer without obtaining a new certificate of title or a new registration if the dealer has a title properly assigned to the dealer from a state that permits its titles to be reassigned by Iowa dealers and if a vacant reassignment space is available on the title.

400.24(3) *New certificate of title required.* A dealer shall obtain a new certificate of title under the procedures in Iowa Code section 321.20(1) as amended by 2024 Iowa Acts, House File 674, section 1, but is not required to pay registration fees for a vehicle if the application for title is made within 30 days of vehicle transfer date and if any of the following conditions apply:

a. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers.

b. The vehicle was assigned to the dealer using an affidavit of foreclosure form prescribed by the department or issued by a foreign jurisdiction.

c. All reassignment spaces of the certificate of title have been used.

d. The vehicle registration fee was delinquent in Iowa at the time the vehicle was acquired by the dealer. The delinquent fees and penalty shall be paid by the dealer from the first day the registration was due to the month the application for title is submitted.

e. In accordance with 761—Chapter 405, the dealer is required to obtain a salvage certificate of title.

400.24(4) *New certificate of title and registration fee required.* A dealer shall obtain both a new certificate of title and pay a registration fee for a vehicle if:

a. The vehicle has a foreign certificate of title but has never been registered and the dealer is not licensed under Iowa Code chapter 322 to sell that line-make of vehicle. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

b. The vehicle was placed in storage by the previous owner. The registration fee due shall be computed from and commence the month the vehicle is removed from storage.

c. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers and the application for a new certificate of title is submitted more than 30 days after the date the vehicle entered Iowa. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

d. The vehicle has been registered in a foreign state or country and all reassignment spaces on the title are full and the application for a new certificate of title is submitted more than 30 days after the last available reassignment space is used. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

e. The vehicle was in the dealer's inventory and the dealer's license was revoked as provided in Iowa Code chapter 322 or 322C or surrendered in lieu of revocation. The dealer shall obtain title and registration within 30 days from the date of revocation or surrender of the license. The registration fee due shall be prorated for the remaining unexpired months of the registration year.

400.24(5) *Registration fee required.* A vehicle owned by a dealer and used as a work or service vehicle, or offered for lease, rent or hire, shall become subject to a registration fee in the month that the vehicle is first used for that purpose. The registration fee shall be due annually unless the vehicle is transferred to the dealer's inventory. To transfer the vehicle, the dealer shall surrender the registration plates that were issued for the vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"*; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.45, 321.46; 321.48; 321.49; 321.67; 321.70; 321.104 and 321.126 and chapter 322.

761—400.25(321) Special trucks. The owner of a truck tractor registered as a special truck shall certify to the owner's county treasurer annually at the time of renewal that the truck tractor is not operated more than 15,000 miles annually.

This rule is intended to implement Iowa Code sections 321.1(75) and 321.121.

761—400.26(307,321) Registration of vehicles registered in another state or country.

400.26(1) The registration fee for a vehicle from another state or country shall be due in the month that the vehicle becomes subject to registration in Iowa.

400.26(2) A vehicle registered in another state or country shall become subject to registration in Iowa and payment of the Iowa registration fee beginning in either of the following:

a. The month of sale or transfer to an Iowa resident.

b. The month that a nonresident owner establishes Iowa residency or accepts employment in Iowa of 90 days duration or longer. The county treasurer or the department may require from the applicant a written statement giving the date that the applicant established residency in Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"*; 321.18; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.53 through 321.55; 321.101 and 321.135.

761—400.27(307,321) Vehicles owned by nonresident members of the armed services.

400.27(1) A vehicle owner who is a nonresident and a member of the armed services is not required to register the vehicle in Iowa if it is properly registered in the person's state of residence.

400.27(2) A vehicle owner who is a nonresident and a member of the armed services may register the vehicle in Iowa under the following conditions:

a. The vehicle is owned entirely by nonresidents.

b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all other vehicles shall be determined as specified in Iowa Code chapter 321. The registration fee under Iowa Code sections 321.116 and 321.117 shall apply.

c. The application for vehicle registration shall include a certification by the person's commanding officer of the person's state of residence and assignment to Iowa.

400.27(3) If ownership of a passenger-type vehicle is transferred to another person, the vehicle shall be subject to registration in Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.53 through 321.55, 321.109, 321.116 and 321.117.

761—400.28(307,321,321L) Registration of vehicles equipped for persons with disabilities. To apply for the reduced registration fees under Iowa Code section 321.109(1)*"b"* or 321.124(1)*"h"*(1)(f), the owner of the vehicle must provide a written self-certification at the first registration and at each renewal of either of the following:

400.28(1) That the automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less has permanently installed equipment manufactured for and necessary to assist a person with a disability, as defined in Iowa Code section 321L.1, to enter or exit the vehicle.

400.28(2) That the owner or a member of the owner's household uses a wheelchair as the person's only means of mobility.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.109, 321.124 and 321L.1.

761—400.29(321) Motorcycle or autocycle primarily designed or converted to transport property. A motorcycle or autocycle primarily designed or converted to transport less than 1,000 pounds of property will be registered as a motorcycle or autocycle. A motorcycle or autocycle primarily designed or converted to transport 1,000 pounds of property or more will be registered as a motor truck.

This rule is intended to implement Iowa Code sections 321.1; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; and 321.117.

761—400.30(307,321) Conversion of motor vehicles.

400.30(1) An automobile converted to a truck with a carrying capacity of 1,000 pounds or more will be registered as a reconstructed motor vehicle.

400.30(2) A vehicle manufactured as a truck tractor or motor truck will not be registered as a motor home unless the vehicle has been substantially altered to change its type and mode of operation so that it is a reconstructed vehicle as defined in Iowa Code section 321.1.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.1, 321.23, 321.111 and 321.124.

761—400.31(321,435) Manufactured or mobile home converted to or from real property.

400.31(1) *Conversion to real property.* When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the process shall be as follows:

a. If a security interest is noted on the title and the secured party is given a mortgage for the land on which the home is located, the assessor shall collect the certificate of title as provided in rule 701—74.5(435).

b. If a security interest is noted on the title and the secured party is not given a mortgage for the land on which the home is located, the secured party shall retain the certificate of title as provided in Iowa Code section 435.26. At the time the security interest is released, the secured party may surrender the certificate of title to the county treasurer, who shall cancel the title as converted to real estate and destroy the title.

c. If there is no security interest noted on the title, the owner shall surrender the certificate of title to the assessor. The assessor shall note the conversion on the face of the certificate of title above the assessor's signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record and then cancel the title as converted to real estate and destroy the certificate of title.

d. If the assessor identifies in the county records a security interest no longer exists that would prevent the title to the home and the title to the land to merge under Iowa Code section 435.26 and the county treasurer verifies there is no lien on the certificate of title, the title to the home and the title to the land shall merge, and the county treasurer shall cancel the title as converted to real estate and destroy the certificate of title, if available.

400.31(2) *Reconversion from real property.*

a. When a manufactured or mobile home is reconverted from real property by adding a vehicular frame, the owner may apply to the county treasurer for a certificate of title.

b. The owner shall submit a record of existing liens obtained from a local abstracter. The record shall identify the owner of the property, list all liens and encumbrances against the property, and shall be signed by the abstracter.

c. The owner shall also submit written consent to the reconversion from any person holding a mortgage on the real property (mortgagee). An existing mortgage shall be noted as a security interest on the certificate of title.

d. The county treasurer shall submit written notice of the reconversion to the county assessor's office.

400.31(3) *Affidavit for surrender of certificate of title.*

a. As provided in Iowa Code section 435.26B, an owner may effectuate a surrender of the certificate of title by recording with the county recorder Form 411186 if all of the following requirements are met:

(1) There is no record that a certificate of title has been issued or surrendered for a manufactured or mobile home that is located outside a manufactured home community or mobile home park.

(2) The manufactured home or mobile home has been converted to real estate by being placed on a permanent foundation.

(3) The manufactured or mobile home is entered on the tax rolls.

b. The fee for the duties performed by the department pursuant to Iowa Code section 435.26B(1) *"i"*(2) shall be $5.

This rule is intended to implement Iowa Code sections 321.1, 435.1, 435.26, 435.26A, 435.26B and 435.27.

761—400.32(307,321) Church bus registration fee. If ownership of a church bus registered under Iowa Code section 321.119 is transferred to a person not entitled to register the vehicle as a church bus or the bus is used in a manner other than provided by law, the church bus shall be registered under the provisions of Iowa Code section 321.122. The registration fee shall be prorated for the remaining unexpired months of the registration year.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.119 and 321.122.

761—400.33(307,321) Storage of vehicles.

400.33(1) The owner of a vehicle upon which the registration fee is not delinquent may surrender all registration plates for the vehicle to the county treasurer where the vehicle is registered and has the right to register the vehicle later upon payment of the annual registration fee due, which shall be computed from and commence the month the vehicle is removed from storage. Payment of a registration fee is not required when the vehicle is removed from storage within the current registration year, provided that registration fees have not been refunded. Surrendered plates shall be destroyed. When a vehicle is removed from storage, the fee is $5 for a set of replacement plates.

400.33(2) The owner of a motor vehicle that is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code section 321.126, and subrule 400.33(1) does not apply.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.126 and 321.134.

761—400.34(307,321) Penalty on registration fees.

400.34(1) *Monthly basis.* The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar. If multiple penalties are assessed, the penalties shall be first added together and then the sum shall be rounded to the nearest whole dollar.

400.34(2) *Vehicle purchased.* The penalty on the registration fee shall accrue from the first day of the month following the date of purchase unless the application for a certificate of title is submitted within 30 days after the date of purchase.

400.34(3) *Vehicle moved into Iowa.* The penalty on the registration fee shall accrue on the first day of the month following 30 days from the date a vehicle is moved into Iowa.

400.34(4) *When delinquency extends beyond the current year.* When the penalty on a delinquent registration fee extends beyond the current registration year, the penalty shall continue to accrue until paid or until the provision of Iowa Code section 321.134(4) takes effect. Penalty shall only accrue on the fee applicable at the time the delinquency accrued and shall not be applicable to subsequent registration fees that have not been paid.

400.34(5) *Statement of nonuse.* If the owner of a vehicle, on which the registration fees have not been paid for more than three complete registration years, certifies to the county treasurer of the owner's residence, or to the department on Form 442018 if a vehicle is registered under Iowa Code chapter 326, that the vehicle has not been moved or operated upon the highway since the year it was last registered, the vehicle may be registered upon payment of the current year's registration fee.

400.34(6) *Waiver of penalties for military members.* Registration penalties will be waived as provided in Iowa Code section 321.134(5), if the owner provides a copy of an official government document verifying that the applicant is in the military service of the United States and has been relocated as a result of being placed on active duty on or after September 11, 2001.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.39, 321.46, 321.47, 321.49, 321.134 and 321.135.

761—400.35(252J,307,321) Suspension, revocation or denial of registration.

400.35(1) A peace officer, county treasurer, or the county treasurer's designee may submit a request using Form 411012, Request for Cancellation of Title or Revocation or Suspension of Registration and Plates, or 411013, Request for Suspension of Registration and Plates, as applicable, to the department for suspension or revocation of registration and plates under Iowa Code section 321.101.

a. The notice of suspension or revocation will contain the following:

(1) The basis of the suspension or revocation.

(2) Information regarding how the person may satisfy the violation and have the suspension or revocation removed, if applicable.

(3) Information notifying the person of the right to appeal the suspension or revocation in accordance with rule 761—400.44(321).

b. Reserved.

400.35(2) When the registration of a vehicle has been revoked as provided in Iowa Code sections 321.101 and 321.101A, the registration fee and penalty shall accrue as if the plates had never been issued, unless waiver of registration fees and penalties is specifically provided for in Iowa Code chapter 321.

400.35(3) Pursuant to Iowa Code section 252J.8, the department will suspend or deny the issuance or renewal of registration and plates upon receipt of a certificate of noncompliance from the child support recovery unit.

a. The suspension or denial takes effect 30 days after notice to the vehicle owner and continues until the department receives a withdrawal of the certificate of noncompliance from the child support recovery unit.

b. If a person who is the named individual on a certificate of noncompliance subsequently purchases a vehicle, the vehicle will be titled and registered, but the registration will be immediately suspended.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 307.12(1) *"j,"* 321.101, 321.101A and 321.127.

761—400.36(307,321) Termination of suspension of registration. Upon termination of the suspension of registration of a vehicle, the county treasurer may issue new plates for the vehicle. If the new plates replace a current series of plates, there shall be a replacement fee as provided in Iowa Code section 321.42. If the vehicle is not currently registered at the time the suspension is lifted, the registration fee and penalties due shall be determined as follows:

400.36(1) If the registration fee was delinquent at the time that the suspension became effective, the penalty shall continue to accrue on the registration fee until the suspension became lifted and the registration fee is paid. In addition, if the suspension was for failure to pay an additional registration fee, the additional registration fee shall be paid before the suspension is lifted.

400.36(2) If the registration fee was not delinquent when the suspension became effective and the suspension is lifted after the beginning of another registration year, the annual registration fee for that year shall be due in the month the suspension is lifted. The penalty shall accrue on the registration fee the first day of the month following the month that the suspension was lifted. The annual registration fee on a recovered stolen vehicle for which the registration has been suspended shall be prorated for the remaining unexpired months of the registration year.

400.36(3) If the registration fee was not delinquent at the time that the suspension became effective and the suspension is lifted during the same registration period, no additional registration fees shall be due unless the suspension was for failure to pay an additional registration fee, in which event the additional registration fee shall be paid before the suspension is lifted.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.42, 321.105 and 321.134.

761—400.37(307,321) Raw farm products. A vehicle may be operated with a gross weight of 25 percent in excess of the gross weight for which it is registered when transporting a load of raw farm products or soil fertilizers under Iowa Code section 321.466 except that nothing in this rule shall be construed to allow operation of a special truck on the public highways with a gross weight exceeding the maximum gross weight allowed under Iowa Code section 321.463(6). In addition, the following products are considered raw farm products. This list is not exhaustive and does not exclude other commodities that might be considered raw farm products:

Animals that are dead	Hides
Berries, fresh	Honey, comb or extracted
Blood	Melons
Corn, ear corn including hybrids	Milk, raw
Corn, shelled	Nursery stock
Corn, cobs	Potatoes
Cream, separated	Peat
Eggs, fresh or frozen in shell	Poultry, live
Flax	Saw logs
Flaxseed	Sod
Fodder	Soybeans
Fruit, fresh	Straw, baled or loose
Grain, threshed or unthreshed	Vegetables, fresh
Hair	Wood, cord or stove wood
Hay, baled or loose	Wool

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.466(4) and 321.466(5).

761—400.38(25,307,321,326) Refund of registration fees.

400.38(1) *Vehicles registered by county treasurer.*

a. The department will refund annual registration fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.

b. Except as provided in Iowa Code section 321.126, the owner may submit a claim for refund to the county treasurer's office in any county.

c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for apportioned registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle, unless the plates have been surrendered to a licensed dealer in Iowa that has submitted the title and registration application under Iowa Code section 321.25. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

d. For a vehicle that was junked, the date on the junking certificate determines the date the vehicle was junked.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) The county treasurer will, within three days of receipt of the claim for refund, provide the information required to process the refund to the department.

(2) The department is authorized to approve or deny the claim.

f. The county treasurer shall forward all other claims for refund to the department for processing in the form and manner prescribed by the department.

400.38(2) *Vehicles registered by the department.* Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the department at the address in subrule 400.6(1).

This rule is intended to implement Iowa Code sections 25.1, 307.12(1)*"j,"* 321.126 through 321.129 and 326.15.

761—400.39(307,321) Assigned identification numbers. The department is authorized to issue to the owner an assigned vehicle identification number for a vehicle, an assigned component part number for a component part, and an assigned product identification number for a fence-line feeder, grain cart, or tank wagon. An identification number will be assigned only if the department is satisfied as to the true identity and ownership of the vehicle, component part, fence-line feeder, grain cart or tank wagon. When an assigned vehicle identification number has been issued for a vehicle, the vehicle will be registered and titled under that number. An assigned component part number or an assigned product identification number shall be used only for identification purposes.

400.39(1) *Issuance of an identification number.* The department will issue an assigned vehicle identification number, assigned component part number or assigned product identification number, as applicable, only if:

a. The original number has been destroyed, removed or obliterated.

b. The vehicle has had a cab, body, or frame change and the replacement cab, body, or frame is within the manufacturer's interchangeability parts specifications catalog and is compatible with the make, model, and year of the vehicle. If the replacement cab, body, or frame change is not within the manufacturer's interchangeability parts specifications catalog or is not compatible with the make, year, and model of the vehicle, the vehicle shall be considered reconstructed and subject to rule 761—400.16(321).

c. The vehicle is specially constructed, reconstructed, a street rod or a replica vehicle. More information is contained in rule 761—400.15(321) for the requirements and procedures applicable to vehicles that are specially constructed, reconstructed, street rods or replica vehicles.

400.39(2) *Procedures.*

a. Request. Whenever an assigned identification number is required under subrule 400.39(1) and the request does not apply to a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department's motor vehicle division at the address in subrule 400.6(1) and request the assignment of a number.

b. Examination. A motor vehicle investigator will contact the owner and schedule a time and place for examination of the vehicle, component part, fence-line feeder, grain cart or tank wagon and ownership documents. An investigator may require the owner to drive or tow the vehicle to and from the examination location upon the applicant's completion of Form 420054. If the vehicle has had a cab, body, or frame change, the owner shall have, for evidence of ownership for the replacement cab, body, or frame, a bill of sale with a description of the part, complete with the manufacturer's identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body, or frame that has been replaced shall be made available for examination at the time and place scheduled.

c. Assigned vehicle identification number.

(1) The investigator upon approval of the request will affix to the vehicle an assigned vehicle identification number and authorize the county treasurer to issue a title and registration for the vehicle.

(2) The owner shall submit the certificate of title and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer will notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title and the registration receipt, will issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.

d. Assigned component part number. The investigator upon approval of the request will affix to the component part an assigned component part number and give to the owner a component part form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

e. Assigned product identification number. The investigator upon approval of the request will affix an assigned product identification number to the fence-line feeder, grain cart or tank wagon and give to

the owner an assigned product identification number form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

400.39(3) *Fees.* A county treasurer, as provided in Iowa Code section 321.20(1) as amended by 2024 Iowa Acts, House File 674, section 1, may issue a corrected certificate of title upon collection of the certificate of title fee and a fee for a notation of a security interest, if applicable. A corrected certificate of title is not required for a name change.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"*; 321.1; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.43; 321.50 as amended by 2024 Iowa Acts, House File 674, section 16; 321.52A and 321.92.

761—400.40(321) Odometer statement.

400.40(1) Pursuant to Iowa Code section 321.71 and 49 U.S.C. Section 32705, an odometer disclosure statement shall be submitted with an application for certificate of title for a motor vehicle unless the motor vehicle is exempt. The statement shall provide a current odometer reading and reflect whether the mileage is "actual," "not actual" or "exceeds mechanical limits."

400.40(2) If the transferor failed to provide an odometer disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts on a form prescribed by the department. The sworn statement will be accepted by the county treasurer or the department in lieu of the required odometer disclosure statement. The subsequent title issued from the sworn statement will record "not actual" mileage.

400.40(3) As required by 49 CFR Section 580.17 in effect as of October 1, 2024, for vehicle transfers that occur through December 31, 2030, any vehicle that is model year 2011 or newer shall require an odometer disclosure statement. For vehicle transfers that occur on or after January 1, 2031, the model year formula for odometer disclosure statements is the current year minus 20. The resulting number represents the first model year for which a motor vehicle is exempt from the odometer statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.71.

761—400.41(321) Stickers.

400.41(1) *Placement of validation sticker.* The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTIONS: For motorcycle, autocycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate. For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.

400.41(2) *Special fuel identification sticker.* Iowa Code section 321.41(4) applies to special fuel identification stickers. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within 3 inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

400.41(3) *Persons with disabilities parking sticker.* A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate. A persons with disabilities parking sticker shall be affixed to the lower left corner of the flying our colors rear registration plate and above the validation sticker to allow for full view of all numerals and letters printed on the plate pursuant to Iowa Code section 321.37.

400.41(4) *Special truck for farm use sticker.* An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker that distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates and flying our colors plates, the stickers must be affixed to the lower left corner of the front and rear plates.

This rule is intended to implement Iowa Code sections 321.34, 321.37, 321.40, 321.41, 321.121 and 321.166.

761—400.42(307,321) Registration receipt issued for trailer-type vehicles. The registration receipt issued for trailer-type vehicles shall be carried in the vehicle that is described on the receipt or in the driver's compartment of the towing vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.32.

761—400.43(321) Damage disclosure statement.

400.43(1) If the transferor failed to provide a damage disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts. The transferee shall also complete section 2 of a separate damage disclosure statement and sign on the buyer's line. The sworn statement and damage disclosure statement completed by the transferee will be accepted by the county treasurer or the department in lieu of the damage disclosure statement required from the transferor.

400.43(2) A model year formula for damage disclosure statements shall be the current year minus eight. The resulting number represents the first model year for which a motor vehicle is exempt from the damage disclosure statement requirements incident to a transfer.

400.43(3) If the transferor completes the damage disclosure on the assignment of title at the time of application for title, a transferor or transferee of a vehicle may submit a separate damage disclosure statement, Form 411108, indicating the damage level of the vehicle and whether the damage level exceeds 70 percent.

a. If the transferor signs both the damage disclosure on the assignment of title and the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement.

b. If the transferee signs the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement only if the separate damage disclosure statement indicates the damage level exceeds 70 percent. If the transferee's statement indicates the damage level is less than 70 percent, and there is no evidence that a prior Iowa title or foreign title was issued or designated as salvage, rebuilt or flood, the department will review the transaction to confirm the damage level using data obtained from the insurance provider, motor vehicle repair facility, or other entity with direct knowledge of the damage.

This rule is intended to implement Iowa Code sections 321.52 and 321.69.

761—400.44(17A,321) Hearings. The department will send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied under this chapter. The notice will be mailed to the person's mailing address as shown on departmental records and takes effect after 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the motor vehicle division at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the 20th day from the date the notice was mailed for revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 through 17A.19, 321.101 and 321.102.

761—400.45(321) Motorized bicycles. The following rules shall apply to motorized bicycles.

400.45(1) *Maximum speed.* If the department has reason to believe that a particular vehicle or model is capable of speeds exceeding 39 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds 39 miles per hour, the vehicle or model will not be registered as a motorized bicycle.

400.45(2) *Identification of a vehicle as a motorized bicycle.* Registration plates issued for motorcycles will also be issued for motorized bicycles.

This rule is intended to implement Iowa Code sections 321.1, 321.13 and 321.166.

761—400.46(307,321) Registration documents lost or damaged in transit through the United States postal service. To obtain without cost the reissuance of registration documents that were sent by the county treasurer to the owner through the United States postal service and that were lost or damaged in transit, the owner of the vehicle shall file application for reissuance between 20 and 60 days of the date the documents were issued by the county treasurer.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.42.

761—400.47(307,321) Credit of registration fees.

400.47(1) *Credit for unexpired registration fee.* The applicant may claim credit, as specified in Iowa Code section 321.46(3), toward the registration fee for one newly acquired replacement vehicle.

a. The credit may be claimed only when the owner of the newly acquired vehicle is applying for a certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) for the newly acquired vehicle.

b. For a junked vehicle, the date on the junking certificate determines the date the vehicle was junked.

c. Excess credit shall not be applied toward the registration fee for a second vehicle.

d. Credit shall be allowed for one or two vehicles which have been sold, traded or junked toward one replacement vehicle. Credit shall be based on the remaining unexpired months of the registration year(s) of the vehicle(s) sold, traded or junked.

400.47(2) *Credit for transfer to spouse, parent or child.* Credit shall be allowed toward a new registration for a vehicle being transferred to the applicant from the applicant's spouse, parent or child, or from a former spouse pursuant to a dissolution of marriage decree, if application for the certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) is made within 30 days after the date of transfer. If the owner is deceased, credit may be transferred under rule 761—400.13(321).

400.47(3) *Credit from/to apportioned registration.*

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle's registration from apportioned registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of apportioned registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the apportioned registration fees due when changing the vehicle's registration from registration by the county treasurer to apportioned registration. Application for apportioned registration shall be submitted to the department's motor vehicle division; more information is contained in 761—Chapter 500.

400.47(4) *Assignment of credit and registration plates from lessor to lessee.* When a lessee purchases the leased vehicle and within 30 days requests the assignment of the vehicle's fee credit and registration plates, the lessor shall assign the registration fee credit and registration plates for the purchased vehicle to the lessee.

400.47(5) *Rounding.* If credit from two registration years or two registration fees, or some combination of both, is available, the credits shall first be added together, then it shall be determined whether the sum meets the minimum required under Iowa Code section 321.46(3)*"c,"* and then the sum shall be rounded to the nearest whole dollar.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.46, 321.46A, 321.48, 321.116, 321.117, 321.126 and 321.127.

761—400.48(321) Reassignment of registration plates.

400.48(1) Registration plates may be reassigned if one of the owners listed on the registration receipt before the transfer is also a listed owner following the transfer.

400.48(2) Registration plates may be reassigned when credit is allowed toward a new registration for a vehicle being transferred to the owner's spouse, parent, or child, or to a former spouse pursuant to a dissolution of marriage decree. If the owner is deceased, plates may be transferred under rule 761—400.13(321).

400.48(3) Registration plates shall not be reassigned between a natural person or persons and a corporation, association, copartnership, company, or firm.

400.48(4) Registration plates may be reassigned and credit allowed if two or more corporations, associations, partnerships, or firms merge into one corporation, association, partnership or firm.

400.48(5) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle to a trust created by that owner.

400.48(6) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle from a living trust to an individual owner who created that trust and vice versa.

This rule is intended to implement Iowa Code sections 321.34 and 321.46.

761—400.49(307,321) Storage of registration plates, certificate of title forms and registration forms. Registration plates, certificate of title forms and registration forms that are consigned to county treasurers by the department shall be stored in a secure location only accessible to authorized persons as designated by the county treasurer or department.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.5, 321.8 and 321.167.

761—400.50(307,321) Disposal of surrendered registration plates. The county treasurer shall return plates that have been surrendered to the county treasurer to Iowa state prison industries for recycling.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.5 and 321.171.

761—400.51(307,321) County treasurer's report of motor vehicle collections and funds. The county treasurer shall file the report provided for in Iowa Code section 321.153 in a manner prescribed by the department.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.153.

761—400.52(321) Removal of registration and plates by peace officer under financial liability coverage law. This rule applies to instances when a peace officer issues a citation and removes the registration receipt and registration plates of a motor vehicle registered in this state when the driver of the motor vehicle is unable to provide proof of financial liability coverage. This rule applies regardless of whether the vehicle was also impounded.

400.52(1) The peace officer shall forward the registration receipt and evidence of the violation to the county treasurer of the county in which the motor vehicle is registered. Evidence of the violation is one of the following:

a. A copy of the citation. The citation must either reference Iowa Code section 321.20B(4)*"a"*(3) or 321.20B(4)*"a"*(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded.

b. A written statement from the peace officer listing the plate number of the registration plate removed from the vehicle and the vehicle owner's name. The statement must either reference Iowa Code section 321.20B(4)*"a"*(3) or 321.20B(4)*"a"*(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded. The statement must be signed by the peace officer or an employee of the law enforcement agency.

400.52(2) The peace officer may either destroy removed plates or deliver the removed plates to the county treasurer for destruction.

This rule is intended to implement Iowa Code section 321.20B.

761—400.53(307,321) Electronic lien and title.

400.53(1) The department may authorize the use of an electronic lien and title (ELT) system to provide an electronic record of the certificate of title to a security interest holder, to subject a vehicle to an electronic lien, and to allow for the submission and receipt of forms related to security interests through electronic means.

a. The department may enter into an agreement with ELT providers for transmission of vehicle data, title data and forms necessary to process security interest transactions through electronic means.

b. The department may authorize an ELT lender to participate in the ELT system if the ELT lender has first established a service relationship with an authorized ELT provider. The department may establish application forms and approval processes as necessary for ELT lenders.

400.53(2) For each individual transaction, an authorized ELT lender may choose to use either the ELT process or the paper security interest process as provided in Iowa Code section 321.50 and rules 761—400.8(321) and 761—400.9(321).

400.53(3) If a security interest is released through ELT and there are no other secured parties, but the ELT lender does not request a paper title to be printed and provided to the owner, or the ELT lender does not otherwise provide a paper title to the owner, then the owner of the vehicle may apply to the county treasurer or the department for a certificate of title to be printed and provided to the owner by submitting an application form in the form and manner prescribed by the department.

a. If there is more than one owner of the vehicle, any owner may apply to the department or the county treasurer, as applicable, for the certificate of title to be printed and provided to whomever the owner specifies.

b. If an owner is deceased, the signatures and documents specified in subrules 400.13(4) and 400.13(5) shall be required.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 17.

ARC 8595C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to OWI and implied consent and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 620, "OWI and Implied Consent," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j"; 321.193; 321J.3; 321J.17 as amended by 2024 Iowa Acts, Senate File 2261, section 6; 321J.17A as enacted by 2024 Iowa Acts, Senate File 2261, section 7; and 321J.20A as enacted by 2024 Iowa Acts, Senate File 2261, section 9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A; chapter 321J as amended by 2024 Iowa Acts, Senate File 2261, sections 6, 7 and 9; and sections 125.84, 125.86, 321.193, 321.201, 321.215, 321.376 and 707.6A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 620 in compliance with Executive Order 10. Proposed Chapter 620 implements Iowa Code chapter 321J and outlines the requirements for a person who has violated Iowa's operating while intoxicated (OWI) laws. The chapter explains the issuance

requirements for a temporary restricted license, the hearings and appeals procedures, and the reinstatement requirements. The proposed chapter also implements 2024 Iowa Acts, Senate File 2261, related to ignition interlock device (IID) requirements for persons who commit OWI offenses. The legislation requires the Department to adopt a new process to allow an IID requirement to be waived upon certification from a medical doctor, to increase the amount of time a person is required to maintain an IID if violations are detected, and to outline the IID provider electronic reporting requirements necessary to implement the compliance-based IID removal provisions of Senate File 2261.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 10, 2024

The Department received no comments. The proposed rules were changed from the Regulatory Analysis to incorporate the changes necessary to implement 2024 Iowa Acts, Senate File 2261.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond the impact estimated by the Legislative Services Agency for 2024 Iowa Acts, Senate File 2261.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 17, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 619 667 972
January 17, 2025 3:30 to 4 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 831 788 850

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 620 and adopt the following **new** chapter in lieu thereof:

CHAPTER 620
OWI AND IMPLIED CONSENT

761—620.1(321J) Definitions.

"Final compliance report" means a report as described in Iowa Code section 321J.17A(3) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

"Medical doctor" for purposes of this chapter means a licensed physician under Iowa Code chapter 148 (doctor of medicine or osteopathy) or the equivalent licensed in another state.

"Violation" means a violation as described in Iowa Code section 321J.17A(4)*"a"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

"Violation occurrence" means an occurrence as described in Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7. A "violation occurrence" as described in Iowa Code section 321J.17A(1)*"d"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, does not include when the ignition interlock device is transferred to a different vehicle.

761—620.2(307,321J) Information and location. Information relating to this chapter is available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.244.9124; by email at driver.services@iowadot.us; or by facsimile at 515.239.1837.

761—620.3(307,321,321J) Issuance of temporary restricted license.

620.3(1) *Application.* An application for a temporary restricted license may be submitted, at any time before or during the revocation period, by completing Form 430400. The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the motor vehicle division in person or by mail at the address in rule 761—620.2(307,321J) or online at www.iowadot.gov/mvd/driverslicense/suspensions-and-revocations.

620.3(2) *Additional requirements.* A person applying for a temporary restricted license will comply with all of the following requirements:

a. Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles owned or operated under the temporary restricted license.

b. Provide certification of installation of an approved ignition interlock device on each vehicle required pursuant to Iowa Code section 321J.20(2).

c. Pay the $200 civil penalty.

d. Pay the applicable reinstatement and license fees.

e. Pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license.

620.3(3) *Medical certification and waiver.*

a. Upon certification from a medical doctor provided to the department on Form 430034, the minimum breath sampling size on an ignition interlock device may be lowered by the ignition interlock device provider to a level permissible under the National Highway Traffic Safety Administration's

Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) as published in the Federal Register, Vol. 78, May 8, 2013, pages 26849 – 26867.

b. Upon certification from a medical doctor provided to the department on Form 430034, the requirement to install an ignition interlock device as a condition of a temporary restricted license may be waived by the department if the applicant has a verifiable medical condition rendering the applicant incapable of providing a deep lung breath sample necessary for analysis by an ignition interlock device at either the standard level or lower level specified in the BAIIDs.

c. A temporary restricted license issued to a person with a medical wavier is subject to the restrictions identified in Iowa Code section 321J.20A(3) as enacted by 2024 Iowa Acts, Senate File 2261, section 9, and must comply with rule 761—615.45(321).

620.3(4) *Restrictions.* Upon receipt and approval of an application, the department will determine the restrictions to be imposed by the temporary restricted license. The licensee is to apply to the department in writing with a justification for any requested change in license restrictions.

620.3(5) *Denial.* A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may contest the decision at any time in accordance with rule 761—620.5(17A,307,321J).

761—620.4(321J) Ignition interlock device provider reports.

620.4(1) *Access and approval.* An approved ignition interlock provider seeking to access department records to perform the electronic reporting outlined in this rule must apply to the department in a manner approved by the department and in compliance with 761—Chapter 301.

620.4(2) *Electronic reporting.*

a. An approved ignition interlock device provider shall electronically report a notice of violation occurrence and a final compliance report to the department in a manner approved by the department.

b. An approved ignition interlock provider shall retain all data, information and records associated with a notice of violation occurrence and final compliance report for a period of at least five years and make such data available to the department upon request.

620.4(3) *Notice of violation occurrence.* The notice of violation occurrence shall be generated and sent by the ignition interlock device provider to the department no earlier than the same day the occurrence meets the criteria under Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7, and no later than seven business days after the occurrence meets the criteria under Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

a. The notice of violation occurrence shall specify the applicable paragraph in Iowa Code section 321J.17A(1)*"a"* through *"d"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, to which the occurrence corresponds.

b. For purposes of determining when the periods referenced in Iowa Code section 321J.17A(1)*"a"* and *"b"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begin and end, the following applies:

(1) The 30-day period described in Iowa Code section 321J.17A(1)*"a"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begins on the date the first violation occurs and ends 30 days after the date the first violation occurred. All violations that occur within that 30-day period count toward one occurrence. Any new violation occurring after the end date of the initial 30-day period counts toward an additional occurrence.

(2) The 24-hour period described in Iowa Code section 321J.17A(1)*"b"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begins when the first violation occurs and ends 24 hours after the time the first violation occurred. All violations that occur within that 24-hour period count toward one occurrence. Any new violation occurring after the end of the initial 24-hour period counts toward an additional occurrence.

c. Any violation will count toward an occurrence under both Iowa Code section 321J.17A(1)*"a"* and *"b"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

d. Failing to provide a detectable breath sample in Iowa Code section 321J.17A(4)*"a"*(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7, means the failure occurred during a random retest.

e. An event described in Iowa Code section 321J.17A(4)*"b"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, is not a violation if the immediate retest is successful and occurs within ten minutes of the first failed test.

f. Upon request, the ignition interlock device provider shall also provide the applicable underlying violation category under Iowa Code section 321J.17A(4)*"a"* as enacted by 2024 Iowa Acts, Senate File 2261, section 7, and any other identifying information requested by the department for each occurrence.

g. Each notice of violation occurrence requires a separate 60-day time extension to the period of time a person is required to maintain an ignition interlock device pursuant to Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

h. Nothing in this subrule prevents a 60-day time extension from being added if the notice of violation occurrence is sent after the time required under this subrule due to the person's failure to have the ignition interlock device reset once it has entered lockout condition.

620.4(4) *Final device download and compliance report.*

a. Upon receipt of notification from the department that the person's requirement to maintain installation of the ignition interlock device has ended, the ignition interlock device provider shall complete a final download of the ignition interlock device to determine if the person has had any violation occurrences prior to or on the end date reported by the department. If no violation occurrences are detected, the ignition interlock device provider shall generate and send to the department a final compliance report, in the form and manner prescribed by the department, no later than seven business days following the date of the final download of the ignition interlock device. The ignition interlock device provider may uninstall the ignition interlock device if the final download detects no violation occurrences prior to or on the end date reported by the department.

b. If, during the final download, a violation occurrence is detected that occurred on or prior to the date the person's requirement to maintain installation of an ignition interlock device ends as reported by the department, all of the following apply:

(1) The ignition interlock device provider shall report the violation occurrence to the department in the same manner as any other violation occurrence is reported.

(2) The time extension under Iowa Code section 321J.17A as enacted by 2024 Iowa Acts, Senate File 2261, section 7, applies and the ignition interlock device cannot be uninstalled until all time extensions have ended.

761—620.5(17A,307,321J) Hearings and appeals.

620.5(1) *Contested case hearing.*

a. A person may request a contested case hearing by submitting Form 432034 to the department or by submitting a written request to the motor vehicle division. The request is to include the person's name, date of birth, driver's license number, complete address and telephone number.

b. A request for a hearing to contest a revocation is to be submitted within ten days following receipt of the revocation notice. The request will be deemed timely submitted if it is delivered to the motor vehicle division or properly addressed and postmarked within this time period.

c. Failure to timely request a hearing on a revocation is a waiver of the right to a hearing under Iowa Code chapter 321J, and the revocation shall become effective on the date specified in the revocation notice.

d. After a hearing, a written decision will be issued by the presiding officer.

620.5(2) *Appeal.* A decision by a presiding officer shall become the final decision of the department unless either party appeals the decision in accordance with this subrule.

a. An appeal is to be decided on the basis of the record made before the presiding officer in the contested case hearing, and no additional evidence shall be presented.

b. An appeal is to include a statement of the specific issues presented for review and the precise ruling or relief requested.

c. An appeal of the presiding officer's decision shall be submitted in writing to the motor vehicle division.

d. An appeal is deemed timely submitted if it is received by the motor vehicle division or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The motor vehicle division will forward the appeal to the director of transportation or director's designee (director). The director may affirm, modify, or reverse the decision of the presiding officer or may remand the case to the presiding officer.

f. Failure to timely appeal a decision shall be considered a failure to exhaust administrative remedies.

620.5(3) *Final agency action.* The decision of the director is the final decision of the department and constitutes final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

620.5(4) *Default.*

a. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Any party may move for default against a party who has requested the contested case proceeding and who has failed to appear after proper service.

c. A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within ten days after receipt of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with subrule 620.5(2). A motion to vacate is to state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate.

d. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

e. Timely filed motions to vacate are to be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties are to respond to a motion to vacate within ten days.

f. "Good cause" for the purpose of this rule means surprise, excusable neglect, or unavoidable casualty.

g. A decision denying a motion to vacate is subject to further appeal in accordance with subrule 620.5(2).

h. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with subrule 620.5(2).

i. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case is to proceed accordingly.

620.5(5) *Petition to reopen a hearing.*

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 is to be submitted in writing to the motor vehicle division. If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. A petition to reopen a hearing may be submitted at any time even if a hearing to contest the revocation was not originally requested or held.

c. A person may appeal a denial of the petition to reopen. A timely appeal is delivered to the motor vehicle division or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

761—620.6(321J) Reinstatement. The department may reinstate the driver's license when the revocation has ended if the person has satisfied the requirements under paragraphs 620.3(2)*"a"* and *"c"* through *"e"* and Iowa Code section 321J.17.

761—620.7(307,321,321J) Issuance of temporary restricted license after revocation period has expired. The department may issue a temporary restricted license under Iowa Code section 321J.20(6) for six months from the end of the original revocation, unless a longer period of time is necessary to complete the requirements for driver's license reinstatement.

620.7(1) An applicant for a temporary restricted license under this rule must demonstrate to the satisfaction of the department one of the following:

a. That a course for drinking drivers was not readily available to the person during the revocation period and that the applicant has enrolled in a course for drinking drivers. The applicant must furnish the dates the class will begin and end.

b. That substance use disorder evaluation and treatment have not been completed because of an inability to schedule them or because they are ongoing.

c. That due to surprise, excusable neglect, or unavoidable casualty, the applicant has been unable to meet the requirements under rule 761—620.3(307,321,321J) and needs additional time for completion.

620.7(2) An applicant for a temporary restricted license under this rule must meet all other conditions for issuance of a temporary restricted license under rule 761—620.3(307,321,321J) and Iowa Code section 321J.20.

761—620.8(307,321J) Revocation for deferred judgment. The revocation period under Iowa Code section 321J.4(3) shall be 90 days.

761—620.9(125,321J) Substance use disorder evaluation and treatment. When the department revokes a person's driver's license under Iowa Code chapter 321J, the department shall also order the person to submit to substance use disorder evaluation and, if recommended, substance use disorder treatment. A provider of substance use disorder evaluation and treatment shall be licensed by the Iowa department of health and human services pursuant to Iowa Code chapter 125.

620.9(1) *Reporting.*

a. When a person has satisfactorily completed substance use disorder evaluation and treatment, the program provider shall electronically report completion to the department in a manner approved by the department.

b. Reporting to the department shall be in accordance with Iowa Code sections 125.84 and 125.86 and 42 CFR §2.13 effective April 16, 2024.

620.9(2) *Payment.* Payment of substance use disorder evaluation and treatment shall be in accordance with Iowa department of health and human services rules.

761—620.10(321J) Drinking drivers course. When a person who has been ordered to enroll, attend, and satisfactorily complete a course for drinking drivers under Iowa Code chapter 321J has successfully completed the course, the program provider under Iowa Code section 321J.22(2)*"a"* shall electronically report completion to the department in a manner approved by the department.

These rules are intended to implement Iowa Code chapter 17A; chapter 321J as amended by 2024 Iowa Acts, Senate File 2261, sections 6, 7 and 9; and sections 125.84, 125.86, 307.12(1)*"j,"* 321.193, 321.201, 321.215, 321.376 and 707.6A.

ARC 8583C

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Proposing rulemaking related to organization and procedures and county commissions of veteran affairs fund and training program and providing an opportunity for public comment

The Iowa Department of Veterans Affairs hereby proposes to amend Chapter 1, "Organization and Procedures"; to rescind Chapter 7, "County Commissions of Veteran Affairs Fund and Training Program," Iowa Administrative Code; and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 35A.5, 35A.13, 35A.16 and 35B.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 259, and 2024 Iowa Acts, House File 2663.

Purpose and Summary

This proposed rulemaking is intended to update definitions and administrative rules concerning training and requirements for county veteran service officers, implement legislative changes to the County Commissions of Veterans Affairs Fund and training program, and update reporting requirements from the counties to the Department for information that the Department reports to the Governor and General Assembly.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 8, 2024

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 661—Chapter 10.

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 January 17, 2025. Comments should be directed to:

Mike Olson
Iowa Department of Veterans Affairs
1301 Summit Street
Marshalltown, Iowa 50158
Email: michael.olson@ivh.state.ia.us

Public Hearing

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

January 17, 2025 10 to 10:50 a.m.	Google Meeting meet.google.com/bae-qefw-eie?hs=224 Or dial: 219.213.3781 Conference ID: 680862936

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. Amend rule **801—1.1(35,35A,35D)**, definitions of "Annual school of instruction" and "Commandant," as follows:

"Annual school of instruction" means annual classroom certification and recertification training sponsored by the department for county veteran service officers to meet accreditation requirements of the National Association of County Veteran Service Officers (NACVSO), in addition to any other training prescribed by the commandant.

"Commandant" means the ~~commandant~~ director of the Iowa ~~Veterans Home~~ department of veterans affairs.

ITEM 2. Rescind paragraph **1.3(4)"h"** and adopt the following **new** paragraph in lieu thereof:

h. Administer or conduct one school for training of county veteran service officers and another for county commissioners of veteran affairs pursuant to Iowa Code section 35A.5(6). At the discretion of the commandant, training for newly appointed county veteran services officers may also be conducted. Training provided for veteran service officers will include courses accredited through the National Association of County Veteran Service Officers as well as other subjects at the discretion of the commandant, who will certify satisfactory completion. The training shall ensure that each county veteran service officer is proficient in the use of electronic mail, general computer use, and use of the Internet to access information regarding facilities, benefits, and services available to veterans and their families.

ITEM 3. Rescind paragraph **1.3(4)"i"**.

ITEM 4. Rescind 801—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
COUNTY COMMISSIONS OF VETERAN AFFAIRS FUND AND TRAINING PROGRAM

801—7.1(35A,35B) County commissions of veteran affairs fund.

7.1(1) *Purpose.* The purpose of the county commissions of veterans affairs fund is to assist county commissions of veteran affairs in complying with legislative requirements for employing a county veteran service officer who maintains national accreditation through the National Association of County Veterans Service Officers (NACVSO), maintains an active Personal Identification Verification (PIV) card necessary to access the Veterans Administration's Veterans Benefit Management System, is occupied in veterans affairs service for a minimum number of hours, and maintains an office in a location owned or leased by the county.

7.1(2) *Allocation amounts.* Counties requesting reimbursement from the department in accordance with Iowa Code section 35A.16(4) will make their requests in accordance with state travel policies.

Required supporting documentation for eligible expenses shall be submitted during the fiscal year up to the $3,000 annual allocation within 30 days of training completion, but no later than June 30 of each fiscal year.

7.1(3) *Allocation report.* Counties shall submit a written report to the department 30 days following the end of the fiscal year in which the allocation was received. The report shall include:

a. An assessment of county veteran affairs services, including county population, verification of an office, hours of employment, and number of hours of veterans' services provided by the county veteran service officer.

b. Documentation that the county veteran service officer is performing required duties and maintaining qualifications and credentials pursuant to Iowa Code section 35B.6.

A final report on county veteran affairs expenditures for the fiscal year in which the allocation was received and the expenditure report from the previous fiscal year. Information provided in this report shall be used by the department to comply with rule 801—7.3(35A,35B).

7.1(4) *Recovery of funds.* The department shall be the entity charged with the recovery of county commissions of veteran affairs fund allocations from counties under the following circumstances:

a. Unauthorized use. Counties expending a portion of the allocation on items that do not provide services to veterans pursuant to Iowa Code section 35B.6 will be required to return the unauthorized funds to the state of Iowa.

b. Maintenance of effort. Counties not maintaining their previous fiscal year's spending levels will be considered to have supplanted county funding with state allocation funds. Counties not complying with their maintenance of effort will be required to return the supplanted portion to the state of Iowa pursuant to Iowa Code section 35A.16(3).

c. Noncompliance. Counties that are not in compliance with the requirements of Iowa Code section 35B.6 on June 30 of each fiscal year will be required to return all moneys received during that fiscal year to the county commissions of veteran affairs fund pursuant to Iowa Code section 35A.16(3). Counties that are deemed noncompliant due to the termination or resignation of an employee shall not be required to return the state allocation if an employee is hired within two months of the previous employee's separation.

7.1(5) *Appeals.* Applicants that are dissatisfied with a decision may file an appeal with the commandant. The written appeal must be received within 15 working days of the date of the notice of decision and must be based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy or rules; or involved conflicts of interest by staff. The commandant shall review the appeal and issue a final decision.

801—7.2(35A,35B) County commission of veteran affairs training program. The department shall provide training for county veteran service officers in accordance with Iowa Code section 35A.5(6).

7.2(1) County veteran service officers shall do the following within one year of appointment or will be subject to removal from office as provided for in Iowa Code section 35B.6(1)*"c"*:

a. Obtain and maintain all certifications that are federally required and provide documentation to the department.

b. Obtain and maintain national accreditation through instruction provided by the department or a national school of accreditation provided or recognized by NACVSO and any other training required by the commandant. Upon completion, a certificate of satisfactory completion shall be provided to the department for certification and issuance of an Iowa certificate of training.

c. Obtain and maintain a PIV card from the United States Department of Veterans Affairs as well as access to the Veterans Benefits Management System and provide the department with documentation. Upon request from a county commission of veteran affairs and based on extenuating circumstances, the commandant may extend the time frame for a veteran service officer to obtain a PIV card prior to being subject to removal from office. The decision of the commandant is final.

d. Counties shall submit to the department annually by July 30 all documentation required by this rule.

7.2(2) County veteran service officers shall maintain the following on an annual basis or will be subject to removal from office as provided for in Iowa Code section 35B.6(1)*"c"*:

a. Maintain all certifications that are federally required and annually provide documentation to the department.

b. Maintain national accreditation through continuing education instruction provided by the department or a national school of accreditation provided or recognized by NACVSO and any other training required by the commandant. Attendance at training courses conducted by veterans organizations other than the department or NACVSO may be substituted for the annual school of instruction if the training meets NACVSO accreditation continuing education requirements. Upon completion, a certificate of satisfactory completion shall be provided to the department for certification and issuance of an Iowa certificate of training.

c. Maintain a PIV card from the United States Department of Veterans Affairs as well as access to the Veterans Benefits Management System and provide the department with documentation.

d. Counties shall submit to the department annually by July 30 all documentation required by this section.

7.2(3) County veteran service officers who fail to comply with subrules 7.2(1) and 7.2(2) shall be removed from their positions. Knowing violation of this provision constitutes noncompliance as provided in paragraph 7.1(4)*"c."*

7.2(4) The annual school of instruction and all associated training materials will be provided at the expense of the department and attendees will not be charged for participation in the training.

7.2(5) Travel, meals, lodging, and miscellaneous expenses incurred while attending the annual school of instruction required by subrules 7.2(2) and 7.2(3) shall be the responsibility of the respective county.

7.2(6) Any cost of initial training, accreditation, and continuing training that uses state funds shall follow the department's travel policy. The department's travel policy overrides county-specific travel policies.

7.2(7) The department shall maintain documentation regarding any school of instruction required by subrules 7.2(2) and 7.2(3), including but not limited to agendas, presentation dates, attendees, certificate of satisfactory completion of accreditation or continuing education training, and the issuance of certificates of training.

7.2(8) Inquiries regarding an annual school of instruction shall be directed to the commandant or designee.

7.2(9) Disputes regarding the annual school of instruction, certificates of training, and related matters shall be reviewed by the commandant, who will render a decision within ten days of receipt of all relevant facts and supporting materials. The decision of the commandant shall be final.

801—7.3(35A,35B) Report to the general assembly. County veteran affairs office assistance. To assist the department to prepare its annual report required by Iowa Code section 35A.5(14), each county commission of veteran affairs shall provide information required in Iowa Code section 35A.5(14)*"a"* through *"c."* The department will provide each county executive director or administrator with a form to return to the department by July 30 of each year.

These rules are intended to implement Iowa Code chapters 35A and 35B.

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:

January 1, 2024 — January 31, 2024	6.50%
February 1, 2024 — February 29, 2024	6.00%

March 1, 2024 — March 31, 2024	6.00%
April 1, 2024 — April 30, 2024	6.25%
May 1, 2024 — May 31, 2024	6.25%
June 1, 2024 — June 30, 2024	6.50%
July 1, 2024 — July 31, 2024	6.50%
August 1, 2024 — August 31, 2024	6.25%
September 1, 2024 — September 30, 2024	6.25%
October 1, 2024 — October 31, 2024	5.75%
November 1, 2024 — November 30, 2024	5.75%
December 1, 2024 — December 31, 2024	6.00%
January 1, 2025 — January 31, 2025	6.25%

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 December is 6.00%.

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 December 10, 2024, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum 1.75%
180-364 days	Minimum 1.65%
One year to 397 days	Minimum 2.00%
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.

ARC 8680C

REVENUE DEPARTMENT[701]

Adopted and Filed Emergency After Notice

Rulemaking related to assessment practices and equalization

The Revenue Department hereby amends Chapter 102, "Assessment Practices and Equalization," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 441.21(1)"e."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 441.21(1)"e."

Purpose and Summary

Iowa Code section 441.21(1)"e" dictates that the valuation of agricultural property for property tax purposes shall be determined on the basis of productivity and net earning capacity of the property. That statute also requires the Department to set forth any formula or method employed to determine productivity and net earning capacity of property by rule. The Department utilizes hay data provided by the United States Department of Agriculture National Agricultural Statistics Services (USDA NASS) to assist with the accurate valuation of agricultural property. Recent changes to hay data reported by USDA NASS will result in inaccurate valuations for the agricultural property classification if the Department does not identify and utilize additional data sources. The Department has found an alternative source of data in the U.S. Census of Agriculture and is incorporating this data source in this rulemaking.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8318C**. Two public hearings were held on the following date:

- November 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on December 4, 2024, because the rule confers a benefit for taxpayers and local governments by addressing an alternative data source to assist with the accurate valuation of agricultural property. The accurate valuation of agricultural property will result in fairer tax bills for property taxpayers in the same taxing districts as agricultural property, as well as agricultural property taxpayers themselves. Additionally, the accurate calculation of taxable values for agricultural properties will provide for a more accurate tax base for local governments to tax against..

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 4, 2024.

Fiscal Impact

This rulemaking has no anticipated fiscal impact to the State of Iowa. However, failure to proceed with this rulemaking would result in the Department's inability to utilize necessary data to ensure the

accurate valuation of agricultural property, making it more likely that incorrect amount of property tax will be assessed and collected by local governments.

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—7.28(17A).

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking became effective on December 4, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend subparagraph **102.12(1)"a"(1)** as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service. If this information is not available from the USDA National Agricultural Statistics Service, this information shall be obtained from the U.S. Census of Agriculture.

1. to 6. No change.

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in "2" above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

ITEM 2. Amend subparagraph **102.12(1)"a"(2)** as follows:

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service. If this information is not available from the USDA National Agricultural Statistics Service, this information shall be obtained from the U.S. Census of Agriculture.

1. to 4. No change.

[Filed Emergency After Notice 12/4/24, effective 12/4/24]
[Published 12/25/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8681C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to wage civil penalties

The Labor Services Division hereby rescinds Chapter 34, "Civil Penalties," and adopts a new Chapter 34, "Wage Civil Penalties," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 91A.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 34 that provides procedures for assessing penalties for violations of Iowa wage law in Iowa Code chapter 91A.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8263C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

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 Division on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 34 and adopt the following **new** chapter in lieu thereof:

CHAPTER 34
WAGE CIVIL PENALTIES

875—34.1(91A) Civil penalties for Iowa Code chapter 91A violations. The director may, upon report of an affected employee or based on other credible information, seek to recover civil money penalties for violation(s) of Iowa Code chapter 91A.

875—34.2(91A) Investigation.

34.2(1) Prior to initiating a contested case proceeding, the director will, in writing, request written information from the complaining employee(s). This request for written information may be omitted for good cause, including urgent circumstances or the possession of sufficient reliable evidence from another source(s).

34.2(2) Prior to initiating a contested case proceeding, the director will, in writing, inform the employer of the nature of the alleged violation(s) and request the employer to provide, within 14 days, a response with relevant information, including information necessary for the to assess penalties. This request for written information may be omitted for good cause, including urgent circumstances or the possession of sufficient reliable evidence from another source(s).

34.2(3) The director may secure evidence or witnesses by administrative subpoena.

34.2(4) The director may, in response to a written complaint, request a warrant to enter a place of employment to inspect records, ask questions, and investigate in relation to possible violations of Iowa Code chapter 91A.

875—34.3(91A) Calculation of penalty.

34.3(1) The director will assess the penalty with due consideration for the size of the employer's business, the gravity of the violation(s), the good faith of the employer, and the history of previous violations by granting appropriate penalty reductions.

34.3(2) The gross penalty for each distinguishable violation will be $500. The following are examples of distinguishable violations:

a. If the act or omission occurs during five consecutive pay periods affecting a single employee, there are five distinguishable violations.

b. If the act or omission occurs during a single pay period affecting 50 employees, there are 50 distinguishable violations.

34.3(3) The size of the business will be considered as follows:

Number of Employees	Penalty Reduction
1-25	25%
26-100	15%
101-250	5%
251+	0%

34.3(4) Gravity will be considered by giving a 20 percent penalty reduction for a low-gravity violation or a 10 percent reduction for a medium-gravity violation. High-gravity violations will receive no gravity reduction. The gravity of a violation will be based primarily on its actual or potential harm to employees. Following are examples of gravity determinations:

a. A low-gravity violation includes any merely technical violation of Iowa Code chapter 91A that does not substantially prejudice any employee.

b. A high-gravity violation includes any violation causing financial injury to an employee.

34.3(5) Good faith will be considered by giving a 15 percent penalty reduction when there is sufficient evidence that the employer made earnest attempts to be well-informed about and in compliance with Iowa Code chapter 91A. A good-faith reduction will not be given if the employer committed a violation(s) after having received a complaint(s) or warning(s) about a practice clearly in violation of Iowa Code chapter 91A.

34.3(6) History will be considered by giving a 10 percent penalty reduction if the violation(s) was isolated. Consideration will be given to prior civil penalty complaints and may include prior wage claims. A history reduction will not be given if the violation(s) for which the penalty is being calculated occurred over an extended period of time.

34.3(7) If the employer does not, upon request of the director, provide information relevant to the penalty assessment, the director may deny any penalty reduction for which the employer does not provide responsive information.

875—34.4(91A) Settlement opportunity. Prior to initiating a contested case proceeding, the director will normally request, in writing, that the employer enter into settlement negotiations. This request may be omitted for good cause, including urgent circumstances or reasonable belief that the employer will not comply with the relevant section(s) of Iowa Code chapter 91A as part of a settlement. The director may, in consideration of the overall nature of the violations, the promptness of the employer's remedial action, and administrative efficiency, accept less than the full penalty from the employer at any time as a settlement.

875—34.5(91A) Notice of penalty assessment; contested case proceedings.

34.5(1) To initiate an Iowa Code chapter 17A contested case proceeding, the director will serve a notice of penalty assessment in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure. Such notice will include the following:

a. A statement that the notice concerns a civil penalty assessment for violation of wage laws.

b. A statement that, if a hearing is requested by the employer, the director will determine, after the hearing is held pursuant to Iowa Code sections 91A.12(2) and 91A.12(3), whether the penalty assessment will be upheld.

c. References to this chapter, Iowa Code section 91A.12, and any sections of Iowa Code chapter 91A that are alleged to have been violated.

d. The type of violation(s).

e. The number of violations.

f. The amount of the penalty.

g. A demand that the employer comply with the notice and recordkeeping requirements of Iowa Code section 91A.6(1).

h. A statement that the employer has the right to request a hearing within 30 days.

34.5(2) Employer nonresponse. If the employer does not respond to the notice of penalty assessment within 30 days of being served, the director will assess the full proposed penalty, and such assessment will be final.

34.5(3) Employer request for hearing. The employer may request a hearing within 30 days of being served by mailing such request to the director. Such request will include the address to which notice of hearing should be mailed. Upon such request, notice of the time and place of hearing will be mailed to the employer and a hearing pursuant to Iowa Code chapter 17A will be conducted before an administrative law judge.

34.5(4) Failure to request judicial review. If, after hearing, the employer does not request judicial review of an adverse decision within 30 days, the ruling is final.

875—34.6(91A) Judicial review.

34.6(1) *Employer petition for Iowa Code chapter 17A judicial review.* The employer may request judicial review of an adverse ruling within 30 days. Such petition for review shall name the agency as respondent and shall contain a concise statement of the following:

a. The nature of the agency action for which review is requested.
b. The action for which review is requested.
c. The facts on which venue is based.
d. The grounds for the relief sought.
e. The relief sought.

34.6(2) *Jurisdiction.* Judicial review will be in the district court of a county in which at least one violation occurred.

34.6(3) *Transmittal of record.* Within 30 days of the petition for judicial review, or longer as allowed by the court, the director shall transmit the record of the case to the reviewing court.

34.6(4) *District court remedies.* The district court may require the employer to deposit the amount of the assessed penalty with the clerk of court pending the outcome of the judicial review, may uphold the penalty, and may order that the employer comply with the notice and recordkeeping requirements of Iowa Code section 91A.6(1).

These rules are intended to implement Iowa Code chapters 91A and 17A.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8682C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to wage discrimination

The Labor Services Division hereby rescinds Chapter 36, "Discrimination Against Employees," and adopts a new Chapter 36, "Wage Discrimination," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 91A.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 36 that provides procedures for investigating wage discrimination when an employer has unlawfully sanctioned an employee for cooperating with Iowa Code chapter 91A complaints.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8265C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

No one attended the public hearings.

There were several comments, all of which asked for the rationale for certain deletions from the original Chapter 36.

- Deletions in rules 875—36.6(91A) and 875—36.7(91A) were because the material is in Iowa Code chapter 91A.
- Deleted rule 875—36.9(91A) allowed the agency to pursue a discrimination complaint even if the complainant withdraws. There are practical reasons why such a case would be problematic and, in a case of coercion, the agency could proceed regardless of the existence this rule; the Notice deletion remains.
- Deleted rule 875—36.10(91A) permitted wage discrimination complaints to be brought under a Collective Bargaining Agreement or under the National Labor Relations Act. This chapter does not control what may be sought in those ways, so the Notice deletion remains.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 36 and adopt the following **new** chapter in lieu thereof:

CHAPTER 36
WAGE DISCRIMINATION

875—36.1(91A) Definitions.

"Director" means the director of the department of inspections, appeals, and licensing or the director's designee.

"The Act" means Iowa Code chapter 91A.

875—36.2(91A) General requirements. An employer shall not discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Assigned a wage claim to the director;
3. Instituted or caused to be instituted any proceeding under or related to the Act;

4. Cooperated in bringing any action against an employer under or related to the Act;
5. Exercised on the employee's behalf or on behalf of others any right afforded by the Act.

875—36.3(91A) Unprotected activities distinguished.

36.3(1) Wage discrimination occurs when an employer engages in adverse action because the employee engaged in a protected activity. An employee's engagement in activities protected by the Act does not automatically render the employee immune from adverse action dictated by nonprohibited considerations.

36.3(2) A violation exists if the protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in the protected activity.

875—36.4(91A) Complaint under or related to the Act. Discharge or discriminatory actions to an employee because the employee has filed a wage claim or asserted in good faith rights covered by the Act are prohibited.

875—36.5(91A) Proceedings related to the Act. Discharge of or discrimination against any employee because the employee has cooperated in bringing any action against an employer related to the Act is prohibited. Protection under the Act would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, or adjudicative functions.

875—36.6(91A) Filing of complaint for discrimination or discharge.

36.6(1) Any employee who believes that discrimination in violation of Iowa Code section 91A.10(5) has occurred may, within 30 days after the violation occurs, lodge a complaint with the director alleging the violation. No particular form is required. If, as a result of the investigation, the director determines that Iowa Code section 91A.10(5) has been violated, civil action may be instituted in any appropriate district court to restrain the violations and to obtain other appropriate relief.

36.6(2) Complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances that would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances.

875—36.7(91A) Decision of the director.

36.7(1) Upon receipt of all requested information, the director may determine the employee's complaint alleging discharge or discrimination is enforceable and notify the employee of that determination.

36.7(2) Upon a determination that the employee's complaint alleging discharge or discrimination is enforceable, the director will notify the employer of that determination in writing and afford the employer an opportunity to tender settlement within 14 days of the writing prior to initiating judicial proceedings.

36.7(3) Upon a determination that the employee's complaint alleging discharge or discrimination is unenforceable, the director shall notify the employee of that decision in writing. The employee shall have 14 days from the date of the written notification to appeal the decision to the director. If the appeal is not made in writing within the 14-day period, then the employee loses the right to appeal the unenforceable decision.

These rules are intended to implement Iowa Code section 91A.10(5).

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8683C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for indigent defense services

The State Public Defender hereby amends Chapter 12, "Claims for Indigent Defense Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 13B.4(8).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

The purpose of this rulemaking is to amend former administrative rules that became inconsistent and incompatible with the new statutory enactments in the 2024 Legislative Session of the 90th General Assembly. Specifically, this rulemaking amends the subrule related to travel time to clarify that out-of-county travel pursuant to Iowa Code section 815.7A does not count toward the attorneys' maximum daily hours.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8281C**. 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 December 4, 2024.

Fiscal Impact

It is impossible to know how many attorneys will take advantage of this amendment and impossible to know how many additional hours those attorneys will undertake each day due to this amendment.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 12.5(4) as follows:

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 *i.* No change.

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 ~~as enacted by 2023 Iowa Acts, Senate File 562~~. 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 ~~payable at any hourly rate counts~~ 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).

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8684C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for other professional services

The State Public Defender hereby amends Chapter 13, "Claims for Other Professional Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 13B.4(8).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

The primary purpose of this rulemaking is to increase pay rates for court reporters and add language allowing court reporters to be paid for realtime reporting and technical transcriptions. The secondary purpose of this rulemaking is to amend or rescind specific language and descriptions in order to conform

to practice and decrease confusion regarding application of these rules. Additionally, this rulemaking removes provisions that are inconsistent with prior statutory enactments.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8279C**. 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 December 4, 2024.

Fiscal Impact

The estimated annual cost of the increase in the rates for court reporters will be approximately $415,000.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend rule 493—13.2(815), introductory paragraph, as follows:

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, ~~foreign language interpreters,~~ 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.

ITEM 2. Amend paragraph **13.2(3)"d"** as follows:

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 ~~$45~~ $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 ~~$35~~ $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 ~~$35~~ $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 ~~$15~~ $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 ~~$3.50~~ $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) to (9) No change.

(10) Expedited transcripts. Expedited transcripts are those that are required to be delivered within five business days of the date requested. Fees of ~~$6~~ $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) No change.

(12) Realtime reporting. Realtime reporting is any reporting provided by a certified realtime reporter (CRR), either in person or remotely, that produces an immediate transcript of proceedings by using a steno machine connected to a computer that instantly translates spoken word to text. Realtime reporting shall be paid at the hourly rate provided for in subparagraph 13.2(3)*"d"*(1).

(13) Technical transcriptions. Technical transcriptions include transcriptions for testimony provided by an "expert witness" as defined in 493—7.1(13B,815). This includes but is not limited to state medical examiners, doctors, nurses, forensic interviewers, accident investigators, lab technicians, and engineers. A witness who happens to fall into one of the preceding categories but who is providing lay testimony does not qualify as an expert witness for purposes of this subparagraph. Technical transcriptions shall be paid at the hourly rate otherwise applicable for such reporting plus an additional $2 per page. If a witness does not qualify as an expert witness for any reason and is not otherwise included in the foregoing list, but a certified shorthand reporter believes a witness still qualifies under this subparagraph, the certified shorthand reporter may provide additional information with their claim to support their request for the technical transcription rate.

ITEM 3. Amend subrule 13.2(6) as follows:

13.2(6) *Submission of claims.*

a. ~~With the exception of judicial branch certified shorthand reporters,~~ All claims ~~submitted on or after March 1, 2020,~~ for professional services shall be submitted electronically via the online claims website: spdclaims.iowa.gov. ~~Effective March 1, 2020, with the exception of judicial branch certified shorthand reporter claims, any~~ 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. ~~Other claims for professional services must be submitted, on a form promulgated by the state public defender, to the state public defender at the following address: State Public Defender, Claims, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319.~~

b. ~~Claims for the payment of services to public defenders provided either by judicial branch certified shorthand reporters or by claimants~~ Claimants granted an exception to online claim submission, must be submitted to the local public defender office for which the services were provided~~. Other judicial branch certified shorthand reporter claims, claimants granted an exception to online claim submission, or claims submitted prior to March 1, 2020, must be submitted~~ or on a form, promulgated by the state public defender, to the state public defender at the following address: State Public Defender, Claims, ~~Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319~~ 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, as appropriate.

ITEM 4. Rescind subrule **13.2(7)**.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8685C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for attorney fees in 600A terminations

The State Public Defender hereby amends Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 13B.4(8).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

The General Assembly changed the definition of "indigency" in Iowa Code chapter 600A to conform to the definition of indigency for purposes of appointment of counsel in all other cases, per Iowa Code section 815.9. This rulemaking reflects that change and clarifies the rate at which court-appointed counsel is to be paid, in line with current practices, and simplifies the language related thereto.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8280C**. 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 December 4, 2024.

Fiscal Impact

The number of people allowed court-appointed counsel will increase with this change of definition; however, the exact increase is unknown. Based on the State Public Defender Office's experience in the area, it is assumed the increased number will not exceed 10 percent. The average cost to the fund over FY 2022 and FY 2023 was $41,822. A 10 percent increase as a result of this legislation would be an increase of $4,182.25, bringing the total future cost to the fund to $46,005.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend rule 493—14.2(13B,600A,815) as follows:

493—14.2(13B,600A,815) ~~Definitions~~ Definition. The following ~~definitions apply~~ definition applies only to this chapter.

"Indigent" ~~means the person has an income level at or below 100 percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services, unless the court determines that the person is able to pay for the cost of an attorney in the pending case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the nature and complexity of the case~~ means the same as defined in Iowa Code section 600A.2(12).

ITEM 2. Amend rule 493—14.3(13B,600A,815) as follows:

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 ~~to which the attorney was appointed after March 11, 2004, and before July 1, 2006,~~ shall be paid ~~at the rate of $50 per hour, with a fee limitation of $500 for the trial court proceedings and $500 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2006, and before July 1, 2007, shall be paid at the rate of $55 per hour, with a~~

~~fee limitation of $550 for the trial court proceedings and $550 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2007, shall be paid at the rate of $60 per hour, with a~~ the hourly rate consistent with Iowa Code section 815.7 for "all other cases." The fee limitation ~~of $600~~ is ten hours for the trial court proceedings and ~~$600~~ ten hours for appellate proceedings.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8686C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to employer records and reports

The Director of the Workforce Development Department hereby rescinds Chapter 11, "Employer Records and Reports," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

Chapter 11 provides administrative rules for the Unemployment Insurance Tax Division of the Department of Workforce Development. The chapter offers guidance for employers on recordkeeping and reporting.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8313C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
EMPLOYER RECORDS AND REPORTS

871—11.1(96) Records. Each employer shall keep records and submit reports at such times as the department may require, and shall comply with the instructions printed upon any report forms issued by the department pertaining to the preparation and return of such reports.

871—11.2(96) Filing of multiple worksite report. Each employer having more than one physical worksite at which workers are employed shall file a Multiple Worksite Report (BLS 3020) for each quarter, providing monthly employment for the three payroll periods that include the twelfth of each month and the amount of wages subject to the unemployment insurance law for each location within this state. This report is required as a supplement to the Employer's Contribution and Payroll Report. Failure to provide this report may result in the assessment of a penalty as provided for in rule 871—23.60(96).

871—11.3(96) Filing of industry verification statement. Each employer shall complete the Industry Verification Statement, BLS 3023VS or 3023VM, for the purpose of verifying the primary products or services of each physical worksite.

These rules are intended to implement Iowa Code chapter 96.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8687C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to forms and informational materials

The Director of the Workforce Development Department hereby rescinds Chapter 12, "Forms and Informational Materials," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

Chapter 12 provides administrative rules for the Research and Information Services Division of the Department of Workforce Development. The chapter identifies the forms the Division must utilize.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8308C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
FORMS AND INFORMATIONAL MATERIALS

871—12.1(96) Federal restriction—forms. The research and information services division uses many federally prepared and supplied forms that contain an office of management and budget (OMB) number and an approved expiration date. The department, which receives and uses in its normal operations such federal forms through a federally appointed special agent, is subject to all of the provisions, restrictions, sanctions and penalties imposed by the Federal Reports Act of 1942 and subsequent amendments.

Form No. Name and description of form.

12.1(1) *Federal forms.*

a. BLS 790, Bureau of Labor Statistics Report on Employment, Payroll and Hours. A research and information services division shuttle schedule sent each month, to a sample of Iowa employers, to collect employment, payroll and hours worked information.

b. BLS 3020, Multiple Worksite Report (65-5519) [reference 345—2.3(96)]. A research and information services division form required each quarter of Iowa employers subject to the unemployment insurance law.

c. BLS 3023VS, Industry Verification Statement (single worksite). A research and information services division form required of employers on a periodic basis to verify the products or services, or both, provided by an employer to ensure that the correct North American Industry Classification System code is assigned to the employer's unemployment insurance account.

d. BLS 3023VM, Industry Verification Statement (multiple worksites). A research and information services division form required of employers on a periodic basis to verify the products or services, or both, provided at each worksite by an employer to ensure that the correct North American Industry Classification System code is assigned to each employer location.

e. BLS 2877, Occupational Employment Survey. Sent twice a year to a sample of employers. Voluntary. Used to obtain confidential information on occupational employment and occupational wages by industry. Forms differ by industry.

12.1(2) *State form.* E-Z Form—for Occupational Employment Survey. Short form for collecting confidential occupational employment and occupational wages. Voluntary.

This rule is intended to implement Iowa Code chapter 96.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8688C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to contested case proceedings

The Director of the Workforce Development Department hereby rescinds Chapter 26, "Contested Case Proceedings," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 84A and 96.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 84A, and 96.

Purpose and Summary

Chapter 26 provides administrative rules for the Unemployment Insurance Division of the Department of Workforce Development. The chapter offers procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8314C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
CONTESTED CASE PROCEEDINGS

871—26.1(17A,96) Applicability. The rules in this chapter govern the procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.

871—26.2(17A,96) Definitions. Terms defined in the Iowa employment security law and the Iowa administrative procedure Act and that are used in these rules shall have the same meaning as provided by

such laws. In addition, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Contested case" means a proceeding defined in Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case in Iowa Code section 17A.10A. It specifically includes any appeal from a determination of a representative of the department or any appeal or request for a hearing by an employer or employing unit from an experience rating, charge determination or other decision affecting its liability. Except as provided in subrule 26.16(4), a final decision of the employment appeal board of the department of inspections, appeals, and licensing shall constitute final agency action. A presiding officer's decision shall be the final decision of the department if there is no appeal therefrom to the employment appeal board of the department of inspections, appeals, and licensing or if the appeal is made directly to the district court in lieu of filing an appeal with the employment appeal board of the department of inspections, appeals, and licensing.

"Presiding officer" means an administrative law judge employed by the department of inspections, appeals, and licensing.

871—26.3(17A,96) Appeal of unemployment benefits contested case.

26.3(1) An unemployment benefits contested case must be filed by a party within ten calendar days of mailing the initial determination of benefits as determined by the postmark or date stamp to the party's last-known address. The appeal must be in writing and delivered by mail, facsimile, email, online, or in person to the department of inspections, appeals, and licensing's unemployment insurance appeals bureau at UIAB Administrative Hearings Division, 502 East 9th Street, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the workforce development website.

26.3(2) The appeal should state the following:

a. The name, address and social security number of the claimant;

b. A reference to the decision from which the appeal is taken; and

c. The grounds upon which the appeal is based.

26.3(3) Notwithstanding the provisions of subrule 26.3(1), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 calendar days from the mailing date of the quarterly statement of benefit charges.

26.3(4) Also notwithstanding the provisions of subrule 26.3(1), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 calendar days from the mailing date of the quarterly billing of benefit charges.

871—26.4(17A,96) Appeal of employer liability contested case.

26.4(1) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers, must be filed by a party no later than 30 calendar days of mailing the tax bureau's decision as determined by the postmark or date stamp to the party's last-known address. The appeal must be in writing and delivered by mail, facsimile, email, online, or in person to Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.4(2) The appeal should state the following:

a. The name, address, and Iowa employer account number of the employer;

b. The name and title of the person filing the appeal;

c. A reference to the decision from which the appeal is taken; and

d. The grounds upon which the appeal is based.

871—26.5(17A,96) Notice of hearing.

26.5(1) Notices of hearing shall be sent to all parties at their last-known address at least ten days in advance of the hearing date by first-class mail, email, or other electronic means. Notices of hearing shall

contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule.

26.5(2) Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

26.5(3) A hearing will be promptly scheduled and conducted by telephone unless a party requests that it be held in person. In-person hearings will be located at the Wallace State Office Building or at a site designated by UIAB. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or by the manager or chief administrative law judge of the appeals bureau. At the discretion of the presiding officer, witnesses or representatives may be allowed to participate via telephone in an in-person hearing.

26.5(4) Whenever it appears that other parties should be joined to dispose of all issues in a contested case, the presiding officer may so order and may grant such continuance to hold such additional proceedings upon notice to all parties.

26.5(5) Any number of appeals involving similar issues of law or fact may be consolidated for hearing so long as no substantial rights of any party would be prejudiced by so doing.

871—26.6(17A,96) Recusal. A presiding officer shall withdraw from participation in the hearing or the making of any decision in a contested case in accordance with provisions outlined in chapter 481—10.9(17A).

871—26.7(17A,96) Withdrawals, dismissals, and continuance.

26.7(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of a presiding officer. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by a presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

26.7(2) A hearing may be postponed by the presiding officer for reasons stated in 481—subrule 10.17(3), either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement should be made not less than three days prior to the scheduled hearing and may be in writing or oral, provided the oral request is recorded by the presiding officer. A party shall not be granted more than one postponement except in the case of extreme emergency.

26.7(3) For good cause shown, the presiding officer may reopen the record, and with notice to all parties, schedule another hearing.

"Good cause," for purposes of this rule, is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include but are not limited to death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, siblings) or other circumstances evidencing an emergency situation that was beyond the party's control and was not reasonably foreseeable.

Examples of circumstances that do not constitute good cause include but are not limited to a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

26.7(4) If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as grounds for appeal to the employment appeal board of the department of inspections, appeals, and licensing upon the issuance of the presiding officer's final decision in the case.

26.7(5) If good cause for reopening has not been shown, the presiding officer may make a decision based upon whatever evidence is properly in the record or, in appropriate cases, may enter default as set forth in rule 871—26.13(17A,96).

871—26.8(17A,96) Discovery. Discovery procedures are subject to rule 481—10.13(17A).

871—26.9(17A,96) Ex parte communications. Ex parte communication is subject to rule 481—10.23(17A).

871—26.10(17A,96) Motions. Motion practice is subject to rule 481—10.15(10A,17A) with the following exceptions:

1. Written responses to motions may be filed within five days after the motion is served.
2. Motions pertaining to the hearing must be filed and served at least five days prior to the hearing date.

871—26.11(17A,96) Prehearing conference. Prehearing conferences are subject to rule 481—10.16(10A,17A), with the exception that requests for a prehearing conference must be filed within three days prior to hearing.

871—26.12(17A,96) Subpoenas for witnesses and documents. Subpoenas are subject to rule 481—10.14(10A,17A) and Iowa Code section 17A.13, with the exception that subpoena requests must be filed within three days prior to hearing.

871—26.13(17A,96) Conduct of hearings. The conduct of hearings is governed by rule 481—10.20(17A), with the exception of the additional following subrules:

26.13(1) The presiding officer shall begin each hearing with a brief statement identifying the parties and issues, outlining the history of the case, advising the parties of their appeal rights and announcing what matters, if any, will be officially noticed. Any party may inspect and use any portion of the administrative file necessary for the presentation of its case. The administrative file may include information from the claimant's files maintained in the agency's computer system.

26.13(2) Each party shall be afforded an opportunity for an opening statement and final arguments.

26.13(3) The hearing shall be confined to evidence relevant to the issue or issues stated on the notice of hearing.

26.13(4) If, during the course of a hearing, it appears to the presiding officer that an issue not set forth in the notice of hearing may affect the presiding officer's decision, the presiding officer shall so notify the parties and announce willingness to continue taking testimony on the underlying factual matters if the parties agree to waive on record further notice and make no objection to continuing. If any party objects, the presiding officer shall postpone or continue the hearing and cause new notices of hearing, containing all relevant issues, to be sent to the parties. Notwithstanding, voluntary quits and discharges generally shall be construed to constitute the single issue of separation from employment so that evidence of either or both types of separation may be received in a single hearing.

26.13(5) If factual issues generally relevant to a party's eligibility or liability for benefits but unrelated to the underlying facts in controversy in the present contested case are exposed, the presiding officer may remand the issue to the appropriate section of the department for investigation and preliminary determination.

26.13(6) If a party fails to appear for the hearing, the presiding officer may proceed with the hearing or decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). If no decision has been issued, the absent party may make a written request to reopen the record for good cause as defined in subrule 26.7(3). The presiding officer may reopen the record for additional material, relevant and nonrepetitious evidence not submitted at the case hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party responds to the notice of hearing after the record has been closed and any party that has participated is no longer on the telephone line or present, the presiding officer shall not take the evidence of the late party and the party may file a written request to reopen the record.

c. Once a decision has been entered, the absent party may file an appeal to the employment appeal board to request a new hearing.

26.13(7) Whenever necessary, the presiding officer may require the attendance at a hearing of department employees having knowledge of the facts in controversy or having technical knowledge concerning the issues raised in appeal.

a. If the primary issue is the claimant's ability to work, availability for work or work search, the department may be named as respondent. The presiding officer may call department personnel having knowledge of the facts in controversy as witnesses.

b. If the issue on appeal is an offer of or recall to work or a job referral by a local workforce development center, both the employer making the offer or recall and the workforce development center representative making the referral may be witnesses at the hearing.

c. If the issue on appeal is the claimant's refusal of employment because of wages, the presiding officer may take the testimony of the workforce development representative having knowledge of prevailing wages in the vicinity. The presiding officer may also obtain testimony and evidence of the hours and other conditions of work for similar jobs in the area.

26.13(8) At the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case amongst themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

26.13(9) The presiding officer may expel or refuse admittance to any party, witness or other person whose conduct at the hearing is disorderly.

26.13(10) If the parties agree that no dispute of material facts exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant material evidence either by stipulation or otherwise as agreed by the parties, without the necessity of a formal evidentiary hearing.

871—26.14(17A,96) Evidence. Rules of evidence are followed in accordance with Iowa Code section 17A.14.

871—26.15(17A,96) Recording costs.

26.15(1) The presiding officer shall electronically record all evidentiary hearings, prehearing conferences and hearings on motions, all of which constitute a part of the record of the contested case. A party may, at its own expense, also record any hearing electronically or by certified shorthand reporter.

26.15(2) Upon request of a party, the department shall provide a copy of the whole or a part of the record at a cost, unless there is further appeal, in which event the record shall be provided to all parties at no cost.

871—26.16(17A,96) Decisions.

26.16(1) The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

a. Set forth the issues, the appeal rights, a concise history of the case, the findings of essential facts, the reasons for the decision and the actual disposition of the case;

b. Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

c. Be sent by first-class mail, email, or other electronic transmission to each of the parties in interest and their representatives.

26.16(2) Copies of all presiding officer decisions shall be kept on file for public inspection at the administrative office of the department of workforce development, filed according to hearing (appeal) number and indexed by the social security number of the claimant.

26.16(3) A presiding officer's decision allowing benefits shall result in the prompt payment of all benefits due. An appeal shall not stay the payment of benefits. A presiding officer's decision reversing an allowance of benefits shall include a statement of overpayment of benefits erroneously paid.

26.16(4) A presiding officer's decision constitutes final agency action in an employer liability contested case.

a. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

b. Any party in interest may file a petition for judicial review in the Iowa district court within 30 days after the issuance of the decision or within 30 days after the denial of the request for rehearing.

26.16(5) In a claimant benefit contested case, final agency action shall be a presiding officer's decision, if no aggrieved party appealed the decision to the employment appeal board within 15 days, or the decision of the employment appeal board, if the aggrieved party appealed the decision to that tribunal.

a. Once final agency action has been established, any party who is aggrieved or adversely affected by the agency action has 30 days to file a petition for judicial review with the district court.

b. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the date that the decision becomes final as a result of the failure to appeal the decision to the employment board. Applications for rehearing filed before this date will be forwarded to the employment appeal board as appeals to that tribunal. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

c. Any party in interest may file a petition for judicial review within 30 days after the denial of the request for rehearing.

These rules are intended to implement Iowa Code chapters 17A and 96.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8689C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to request for waiver of administrative rule

The Director of the Workforce Development Department hereby rescinds Chapter 41, "Request for Waiver or Variance of Administrative Rule," and adopts a new Chapter 41, "Request for Waiver of Administrative Rule," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted 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

This chapter provides guidance to the public on requesting waivers of rules for the Department of Workforce Development.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8309C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 41 and adopt the following **new** chapter in lieu thereof:

CHAPTER 41
REQUEST FOR WAIVER OF ADMINISTRATIVE RULE

871—41.1(17A) Requests for waiver of rules. Any person may file a request for waiver of an administrative rule of the workforce development department[871] by writing a proper request, which is received by the Division Administrator, Division of Unemployment Insurance Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. All requests for waiver of an administrative rule should be in writing and meet all requirements set out in this chapter. A request is deemed filed when it is received by the division administrator. The agency should provide the requester with a file-stamped copy of the request if the requester provides the agency an extra copy for this purpose. The request should be emailed, typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA WORKFORCE DEVELOPMENT

(Name of person requesting waiver)	}	Request for waiver of (specify rule for which waiver is requested)

The petition should provide the following information:

1. The name and address of the person or entity for whom a waiver is requested.
2. A description and citation of the specific rule for which a waiver is requested.
3. The specific waiver requested, including the precise scope and time period that the waiver will extend.
4. Relevant facts that the requester believes would justify a waiver. This statement should include a signed statement from the petitioner attesting to the accuracy of the facts.
5. A history of the agency's action relative to the requester.
6. Any information regarding the agency's treatment of similar cases, if known.
7. The name, address and telephone number of any person inside or outside state government who would be adversely affected by the grant of the request, or who otherwise possesses knowledge of the matter with respect to the waiver request.
8. Signed release of information authorizing persons with knowledge regarding requests to furnish the agency with information pertaining to the waiver, if necessary.

871—41.2(17A) Procedural requirements.

41.2(1) The department should acknowledge a request upon receipt. Within 30 days after receipt of a request for waiver of an administrative rule, the agency verifies that the requester has provided a copy to anyone who is required to receive one by provision of law. The agency may also require the requester to send a copy of the request to other persons who would have an interest in the subject matter.

41.2(2) The agency grants or denies a request for waiver of all or a portion of a rule as soon as practical. This will be done within 120 days of its receipt, unless requester agrees to a later date. However, if a waiver request has been filed in a contested case proceeding, the agency shall grant or deny the request no later than the time at which the final decision in that contested case is issued. Failure of the agency to grant or deny such a request within the required time period is a denial of that request by the agency. If the request for waiver relates to a time requirement of an administrative rule, the request must be received before the time specified in the rule has expired. Within seven days of its issuance, any response issued under this rule shall be transmitted, normally by depositing it in the mail, to the requester or the person to whom the response pertains and to any other person entitled to such notice by any provision of law.

871—41.3(17A) Criteria for waiver.

41.3(1) The director of the workforce development department decides whether circumstances justify the granting of a waiver, given relevant facts. The requester assumes the burden of persuasion involving a request for waiver of an administrative rule. The requester must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person for whom the waiver is requested; the waiver of the rule on the basis of the particular circumstances relevant to that specified person would be consistent with public interest; 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; and the waiver of the rule in the specific case would not prejudice the substantial legal rights of any person.

41.3(2) The agency will deny a request for waiver of an administrative rule if the request waives any statute in whole or part. The agency should deny any request if it does not comply with the provisions of this rule. The agency may grant waiver of a rule if it finds that application of all or a portion of the rule to the circumstances of the specified person would not, to any extent, advance or serve any purposes of the rule. The agency will deny a request unless there are exceptional circumstances justifying an exception to the general application of the rule in otherwise similar circumstances. A waiver will be denied if the material facts presented in the request are not true or

material facts have been withheld. The agency may request additional information from the requesting party relative to the application and surrounding circumstances.

871—41.4(17A) Public inspection. All waiver requests and responses shall be indexed by administrative rule number and available to members of the public for inspection at Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa. Identifying information concerning individuals as unemployment benefit claimants and taxpayers and other identifying information may be withheld by the agency in order to protect the confidentiality of parties as required by Iowa Code chapter 96.

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

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8690C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Director of the Workforce Development Department hereby rescinds Chapter 42, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code 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

Chapter 42 provides administrative rules for agency procedure related to public records and fair information practices.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8310C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of workforce development hereby adopts, with the following exceptions and amendments, the Uniform Rules of 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.

871—42.1(22,84A) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "the Department of Workforce Development".

"Person" means an individual, corporation, governmental entity, estate, trust, partnership, association, or any other legal entity.

"Personally identifiable information." In lieu of the words "an individual in a record that identifies the individual and that is contained in a record system", insert "a person in a record that identifies the person and that is contained in a record system".

"Record system." In lieu of the words "an individual, number, symbol, or other unique retriever assigned to an individual", insert "a person, number, symbol or other unique retriever assigned to the person".

871—42.3(22,84A) Request for access to records.

42.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "director". Also, in lieu of the words "(insert agency name and address)", insert "Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319".

42.3(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. daily, excluding Saturdays, Sundays, and legal holidays".

42.3(4) *Response to requests.* In lieu of the words "X.4", insert "42.4(22,84A)".

42.3(7) *Fees.*

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

871—42.4(22,84A) Access to confidential records. In lieu of the words "rule X.3", insert "rule 42.3(22,84A)".

871—42.6(22,84A) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319".

871—42.7(22,84A) Consent to disclosure by the subject of a confidential record. Remove the parentheses around "(and, where applicable, the time period during which the record may be disclosed)".

871—42.9(22,84A) Disclosure without the consent of the subject.

42.9(1) An open record is routinely disclosed without the consent of the subject.

42.9(2) To the extent allowed by law, disclosure of a confidential record may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without consent of the subject:

a. For a routine use as defined in rule 871—42.10(22,84A).

b. To another governmental agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such governmental agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

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

d. Disclosure in the course of employee disciplinary proceedings.

e. In response to a court order or subpoena.

f. To the citizens' aide under Iowa Code section 2C.9(3).

871—42.10(22,84A) Routine use.

42.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject, 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, Iowa Code chapter 22.

42.10(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, employee, and agent, or on the custodian's own initiative, determine what constitutes legitimate need to use a confidential record.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

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

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

871—42.11(22,84A) Release to a subject.

42.11(1) The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 871—42.6(22,84A). However, the agency will not release the following records to the subject:

a. The identity of a person providing information to the agency when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.

c. A peace officer's investigative report should be withheld from the subject, except as required by Iowa Code section 22.7(5).

d. As otherwise authorized by law.

42.11(2) 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.

871—42.12(22,84A) Availability of records.

42.12(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by law or rule.

42.12(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. Labor market records made available to the agency under an agreement with the United States Department of Labor, Bureau of Labor Statistics, and withheld from public inspection pursuant to 29 Code of Federal Regulations 70 dated July 1, 1987.

b. County economic development survey records made available to the agency under an agreement with the department of workforce development, and withheld from public inspection pursuant to Iowa Code section 96.11(7).

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

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

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

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

g. 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."*

h. Those portions of the agency's staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by the agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would, pursuant to Iowa Code sections 17A.2 and 17A.3:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

i. Records that constitute attorney work product, 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 R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

j. Unemployment insurance division tax and claim records pursuant to Iowa Code section 96.11(6) unless the records become part of the record in a hearing before an administrative law judge in a contested case pursuant to Iowa Code chapter 96.

42.12(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 871—42.4(22,84A). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 42.4(3).

871—42.13(22,84A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 871—42.1(22,84A). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison

of personally identifiable information in one record system with personally identifiable information in another record system.

42.13(1) The record systems maintained by the agency are:

a. Labor market records. These records are collected from employing units under an agreement with the United States Department of Labor, Bureau of Labor Statistics, for the purposes of analyzing and distributing general labor market information including current employment statistics, employment by occupation statistics, local area unemployment statistics, wage and hour statistics, and permanent mass layoff and plant closing statistics. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

b. County economic development survey records. These records are collected from employing units and individuals under an agreement with the department of workforce development, for the purposes of providing local economic development groups with statistical information on the number and characteristics of individuals available for employment within a county as well as providing employee wage by occupation and benefit information. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

c. Personnel files. The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, 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). Some of these records are stored in an automated data processing system and may be retrieved by a personal identifier.

d. Other groups of records routinely available for public inspection. This paragraph describes groups of records maintained by the agency other than in a record system as defined in rule 871—42.1(22,84A):

(1) Rulemaking. Rulemaking records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

(2) Committee records. Agendas, minutes, and materials presented to the department of workforce development coordinating committee are available from the custodian, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4). Coordinating committee records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code sections 21.3 and 84A.2(4). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

(3) Publications. News releases, annual reports, project reports, agency newsletters, brochures, etc., are available at the administrative office of the agency. These may contain information about persons, including agency staff or members of agency committees. These records are not stored on an automated data processing system and may not be retrieved by a personal identifier.

(4) Statistical reports. Periodic reports of labor market information are available from the agency. Statistical reports do not contain information about persons.

(5) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to paragraph 42.12(2)*"g."* These records may contain information about a person collected under the authority of Iowa Code section 84A.1.

(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

(7) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in the administrative office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the custodian of the record,

Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. Policy manuals do not contain information about persons.

(8) All other records that are not exempted from disclosure by law.

42.13(2) All data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

871—42.14(22,84A) Applicability. This chapter does not:

1. Require the agency to index or retrieve records that contain information about persons by that person's name or other personal identifier.
2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency that are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings are governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8691C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to petitions for rulemaking

The Director of the Workforce Development Department hereby rescinds Chapter 43, "Petitions for Rule Making," and adopts a new Chapter 43, "Petitions for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted 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

Chapter 43 provides administrative rules regarding agency procedure related to petitions for rulemaking.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8311C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 43 and adopt the following **new** chapter in lieu thereof:

CHAPTER 43
PETITIONS FOR RULEMAKING

871—43.1(17A,84A) Petition for rulemaking. Any person may file a petition for rulemaking with the department of workforce development at 1000 East Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency should provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be emailed, typewritten, or legibly handwritten in ink, and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULEMAKING

The petition should provide the following information:

1. A statement of the specific rulemaking action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule, and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of the petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the proposed action that is the subject of the petition.
6. Any request by the petitioner for a meeting provided for by rule 871—43.4(17A,84A).

43.1(1) The petition should be dated and signed by the petitioner or the petitioner's representative. It should also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

43.1(2) The agency may deny a petition because it does not substantially conform to the required form.

871—43.2(17A,84A) Briefs. The petitioner may attach a brief to the petition in support of the action. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

871—43.3(17A,84A) Inquiries. Inquiries concerning the status of a petition for rulemaking may be made to Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

871—43.4(17A,84A) Agency consideration.

43.4(1) Within 14 days after the filing of a petition, the agency should submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by the petitioner in the petition, the agency should schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Any person may submit comments on the substance of the petition.

43.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency should in writing, deny the petition and notify the petitioner of its action and the specific grounds for the denial, or grant the petition and notify the petitioner that it has instituted rulemaking proceedings on the subject of the petition. The petitioner is deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to the petitioner.

43.4(3) Denial of the petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

These rules are intended to implement Iowa Code chapters 17A and 84A.

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.

ARC 8692C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to declaratory orders

The Director of the Workforce Development Department hereby rescinds Chapter 44, "Declaratory Orders," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

Chapter 44 provides administrative rules for declaratory orders in the Unemployment Services Division of the Department of Workforce Development. The chapter offers agency procedure related to public records and fair information practices.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8312C**. A public hearing was held on the following date(s):

- November 19, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director on December 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 871—Chapter 41.

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 January 29, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 44 and adopt the following **new** chapter in lieu thereof:

CHAPTER 44
DECLARATORY ORDERS

871—44.1(17A) Petition for declaratory order. Any person may file a petition with the agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department of workforce development at 1000 East Grand Avenue, Des Moines, Iowa 50319. If the petition deals with a statute within the express jurisdiction of one of the divisions, it shall be forwarded to that division for determination. Service of petitions for district court review of all agency decisions, rulings and actions (where such service is required by Iowa Code chapter 17A) will be made by the agency. Declaratory orders made by the divisions are considered final rulings for the agency with regard to Iowa Code chapter 17A.

A petition is deemed filed when it is received by that office. The agency shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency with an extra copy for this purpose. The petition should be emailed, typewritten or legibly handwritten in ink and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition should provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 871—44.4(17A,84A).

The petition should be dated and signed by the petitioner or the petitioner's representative. It should also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

871—44.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the agency should give notice of the petition to all persons not served by the petitioner pursuant to rule 871—44.6(17A) to whom notice is required by any provision of law. The agency may also give notice to any other persons.

871—44.3(17A) Intervention.

44.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order are allowed to intervene in a proceeding for a declaratory order.

44.3(2) Any person who files a petition for intervention prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department of workforce development.

44.3(3) A petition for intervention should be filed at 1000 East Grand Avenue, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The agency will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention should be typewritten or legibly handwritten in ink and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention should provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition should be dated and signed by the intervenor or the intervenor's representative. It should also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

871—44.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department of workforce development may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

871—44.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

871—44.6(17A) Service and filing of petitions and other papers.

44.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order should be served upon each of the parties of record to the proceeding and on all other persons identified in the petition for declaratory order or petition for intervention, simultaneously with their

filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

44.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the director of the Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

44.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 871—26.11(17A,96).

871—44.7(17A) Consideration. Upon request by petitioner, the department of workforce development schedules a brief and informal meeting between the original petitioner, all intervenors and a member of the staff of the department of workforce development to discuss the questions raised. The agency may solicit comments from any person on the questions raised, and any person may submit comments.

871—44.8(17A) Action on petition.

44.8(1) After receipt of a petition or a declaratory order, the director of the department of workforce development or designee takes action on the petition as required by Iowa Code section 17A.9(5).

44.8(2) The date an order is issued or refused is defined in rule 877—26.2(17A,96).

871—44.9(17A) Refusal to issue order.

44.9(1) The department of workforce development will not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with the required form.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department of workforce development to issue an order.

c. The agency does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is instead based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a previously made agency decision.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that petitioner.

j. The petitioner requests the agency to determine whether a statute is unconstitutional on its face.

44.9(2) A refusal to issue a declaratory order will indicate the specific grounds for the refusal and constitutes final agency action on the petition.

44.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue a ruling.

871—44.10(17A) Contents of declaratory order—effective date. In addition to the ruling itself, a declaratory order contains the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

871—44.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order are mailed promptly to the original petitioner and all intervenors.

871—44.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department of workforce development, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department of workforce development. The issuance of a declaratory order constitutes final agency action on the petition.

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

[Filed 12/4/24, effective 1/29/25]
[Published 12/25/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/24.