

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rulemaking related to practice of podiatry
and providing an opportunity for public comment**

The Board of Podiatry hereby proposes to rescind Chapter 223, “Practice of Podiatry,” 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, 149 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 149 and 272C.

Purpose and Summary

This proposed rulemaking provides Iowans, licensees, and their employers with definitions relevant to the practice of podiatrists and requirements for administering conscious sedation, for preventing human immunodeficiency virus and hepatitis B virus transmission, for unlicensed graduates of a podiatric college working as assistants, and for prescribing opioids. This rulemaking articulates practice standards and provides a scope of practice for the profession.

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

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Tony Alden
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.281.4401
Email: tony.alden@dia.iowa.gov

Public Hearing

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

January 30, 2024
10 to 10:20 a.m.

6200 Park Avenue
Des Moines, Iowa
Via video/conference call:
meet.google.com/jji-jaoj-uqy
Or dial: 1.402.921.2210
PIN: 744 558 427#

January 31, 2024
10 to 10:20 a.m.

6200 Park Avenue
Des Moines, Iowa
Via video/conference call:
meet.google.com/jji-jaoj-uqy
Or dial: 1.402.921.2210
PIN: 744 558 427#

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. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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 645—Chapter 223 and adopt the following **new** chapter in lieu thereof:

CHAPTER 223
PRACTICE OF PODIATRY

645—223.1(149) Definitions.

“Ambulatory surgical center” or *“ASC”* means an ambulatory surgical center that has in effect an agreement with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, in accordance with 42 CFR Part 416 as amended to November 22, 2023.

“Conscious sedation” means a depressed level of consciousness produced by the administration of pharmacological substances that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

645—223.2(149) Requirements for administering conscious sedation. A licensed podiatrist who holds a permanent license in good standing may use conscious sedation for podiatric patients on an outpatient basis in a hospital or ASC after the podiatrist has submitted to the board office an attestation on a form approved by the board.

223.2(1) The attestation shall include:

a. Evidence of successful completion within the past five years of a formal anesthesiology rotation in a residency program approved by the Council on Podiatric Medical Education (CPME); or

b. For a podiatrist who does not meet the requirements of paragraph 223.2(1) *“a,”* an attestation with evidence that the podiatrist is authorized by the governing body of a hospital or ASC to use conscious sedation. This attestation must be received by the board prior to January 1, 2005.

223.2(2) The podiatrist will provide verification of current certification in Basic Cardiac Life Support (BCLS) or Advanced Cardiac Life Support (ACLS).

223.2(3) A podiatrist who has an attestation on file and continues to use conscious sedation will meet the requirements of 645—Chapter 222 at the time of license renewal. A minimum of one hour of continuing education in the area of conscious sedation or related topics is required beginning with the renewal cycle of July 1, 2004, to June 30, 2006. Continuing education credit in the area of conscious sedation may be applied toward the 40 hours of continuing education required for renewal of the license. In addition, the podiatrist will maintain current certification in BCLS or ACLS.

223.2(4) A podiatrist will only utilize conscious sedation in a hospital or ASC when the podiatrist has been granted clinical privileges by the governing body of the hospital or ASC in accordance with approved policies and procedures of the hospital or ASC.

223.2(5) It is a violation of the standard of care for a podiatrist to use conscious sedation agents that result in a deep sedation or general anesthetic state.

223.2(6) Reporting of adverse occurrences related to conscious sedation. A licensed podiatrist who has an attestation on file with the board must submit a report to the board within 30 days of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during or as a result of conscious sedation. Included in the report will be the following:

- a. Description of podiatric procedures;
- b. Description of preoperative physical condition of patient;
- c. List of drugs and dosage administered;
- d. Description, in detail, of techniques utilized in administering the drugs;
- e. Description of adverse occurrence, including:
 - (1) Symptoms of any complications including, but not limited to, onset and type of symptoms;
 - (2) Treatment instituted;
 - (3) Response of the patient to treatment;
- f. Description of the patient's condition on termination of any procedures undertaken;
- g. If a patient is transferred, a statement providing where and to whom; and
- h. Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(7) Failure to report. Failure to comply with subrule 223.2(6) when the adverse occurrence is related to the use of conscious sedation may result in the podiatrist's loss of authorization to administer conscious sedation or in other sanctions provided by law.

223.2(8) Record keeping. The patient's chart must include:

- a. Preoperative and postoperative vital signs;
- b. Drugs administered;
- c. Dosage administered;
- d. Anesthesia time in minutes;
- e. Monitors used;
- f. Intermittent vital signs recorded during procedures and until the patient is fully alert and oriented with stable vital signs;
- g. Name of the person to whom the patient was discharged; and
- h. Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(9) Failure to comply with these rules is grounds for discipline.

645—223.3(139A) Preventing HIV and HBV transmission. Podiatrists will comply with the recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, or with the recommendations of the expert review panel established pursuant to Iowa Code section 139A.22(3) and applicable hospital protocols established pursuant to Iowa Code section 139A.22(1). Failure to comply will be grounds for disciplinary action.

645—223.4(149) Unlicensed graduate of a podiatric college. An unlicensed graduate of a podiatric college may function in the licensed podiatrist’s office only as a podiatric assistant. The licensed podiatrist has full responsibility and liability for the unlicensed person.

223.4(1) Treatments, charting, and notations completed by the unlicensed graduate must be initialed by that person and countersigned by the licensed podiatrist.

223.4(2) An unlicensed graduate will not:

- a.* Be referred to as “doctor” during professional contact with patients.
- b.* Treat patients in the office without a licensed podiatrist present.
- c.* Perform surgical work without direct supervision of a licensed podiatrist.
- d.* Diagnose or prescribe medicine.
- e.* Take independent actions regarding diagnosis, treatment or prescriptions.
- f.* Visit nursing homes or make house calls without the presence of the licensed podiatrist.
- g.* Bill for any services.

645—223.5(149) Prescribing opioids. Podiatrists will review a patient’s information contained in the prescription monitoring program database for each opioid prescription prior to prescribing, unless the patient is receiving inpatient hospice care or long-term residential facility care.

These rules are intended to implement Iowa Code chapters 139A, 149 and 514F.