

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 195, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

This proposed new chapter makes the following changes to the language in the rescinded chapter: adds definitions for “applicant” and “license,” amends the definition for “licensing authority” and replaces the phrase “department or board” or the word “board” with the term “licensing authority.”

Any interested person may make written comments or suggestions on the proposed rules on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

These rules are intended to implement Iowa Code chapter 261.

The following amendment is proposed.

Rescind 641—Chapter 195 and adopt the following **new** chapter in lieu thereof:

CHAPTER 195
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT
FOR PAYMENT OF OBLIGATION

641—195.1(261) General definitions. For the purposes of this chapter, the following definitions shall apply:

“*Applicant*” means an individual who is seeking the issuance of a license.

“*Certificate of noncompliance*” means written certification from the college student aid commission to the licensing authority certifying that the licensee has defaulted on an obligation owed to or collected by the commission.

“*Commission*” means the college student aid commission.

“*Department*” means the department of public health.

“*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

“*Licensing authority*” means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

641—195.2(261) Issuance or renewal of a license—denial. The licensing authority shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127.

195.2(1) In order to process the certificate of noncompliance received by the licensing authority, the licensing authority will maintain records of licensees by name, current known address, and social security number.

195.2(2) Upon receipt of a certificate of noncompliance duly issued by the commission, the licensing authority shall initiate procedures for denial of issuance or renewal of licensure.

195.2(3) The licensing authority shall provide notice to the licensee or applicant informing that person of the licensing authority's intent to deny the license, and said notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. The notice shall state all of the following:

a. The licensing authority intends to deny issuance or renewal of an individual's license due to the receipt of a certificate of noncompliance from the commission.

b. The individual must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under this subrule, the individual's license shall be denied.

195.2(4) The applicant or licensee served with a notice under 195.2(3) shall not have a right to a hearing before the licensing authority but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of the provision of notice.

195.2(5) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or licensee.

195.2(6) The licensing authority's administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or licensee.

195.2(7) All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

195.2(8) In the event an applicant or licensee timely files a district court action following service of a licensing authority notice pursuant to Iowa Code section 261.126, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed.

195.2(9) Upon the filing of a district court action, the applicant or licensee shall promptly file with the licensing authority a copy of the petition filed with the district court. In addition, the applicant or licensee shall provide the licensing authority with copies of all court orders and rulings entered in such action within seven days of the action.

195.2(10) For purposes of determining the effective date of the denial of the issuance or renewal of a license, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

641—195.3(261) Suspension or revocation of a license. The licensing authority shall suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the provisions contained in those sections, the following shall apply:

195.3(1) In order to process the certificate of noncompliance received by the licensing authority, the licensing authority will maintain records of licensees by name, current known address, and social security number.

195.3(2) Upon receipt of a certificate of noncompliance duly issued by the commission, the licensing authority shall initiate procedures for suspension or revocation of licensure.

195.3(3) The licensing authority shall provide notice to the licensee informing the individual of the licensing authority's intent to suspend or revoke the license, and said notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. The notice shall state all of the following:

a. The licensing authority intends to suspend or revoke an individual's license due to the receipt of a certificate of noncompliance from the commission.

b. The individual must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under this subrule, the individual's license shall be suspended or revoked.

195.3(4) The licensee served with a notice under 195.3(3) shall not have a right to a hearing before the licensing authority but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of the provision of notice.

195.3(5) The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee.

195.3(6) The licensing authority's administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the licensee.

195.3(7) All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the licensing authority has suspended or revoked a license pursuant to Iowa Code chapter 261.

195.3(8) In the event a licensee timely files a district court action following service of a licensing authority notice pursuant to Iowa Code section 261.126, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed.

195.3(9) Upon the filing of a district court action, the licensee shall promptly file with the licensing authority a copy of the petition filed with the district court. In addition, the licensee shall provide the licensing authority with copies of all court orders and rulings entered in such action within seven days of the action.

195.3(10) For purposes of determining the effective date of the suspension or revocation, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

641—195.4(17A,22,261) Sharing of information. Notwithstanding any statutory confidentiality provision, the licensing authority may share information with the commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 261.

These rules are intended to implement Iowa Code chapter 261.