



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1835 to 1902

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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)
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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 Rule Making 2023

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	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>**Dec. 21 '22**</b>	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23
<b>**Jan. 4**</b>	Jan. 25	Feb. 14	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 20	Feb. 8	Feb. 28	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 3	Feb. 22	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 17	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sep. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sep. 18
Mar. 17	Apr. 5	Apr. 25	May 10	<b>**May 10**</b>	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	<b>**June 21**</b>	July 12	Aug. 16	Nov. 13
<b>**May 10**</b>	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sep. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sep. 27	Dec. 25
<b>**June 21**</b>	July 12	Aug. 1	Aug. 16	<b>**Aug. 16**</b>	Sep. 6	Oct. 11	Jan. 8 '24
July 7	July 26	Aug. 15	Aug. 30	Sep. 1	Sep. 20	Oct. 25	Jan. 22 '24
July 21	Aug. 9	Aug. 29	Sep. 13	Sep. 15	Oct. 4	Nov. 8	Feb. 5 '24
Aug. 4	Aug. 23	Sep. 12	Sep. 27	Sep. 29	Oct. 18	Nov. 22	Feb. 19 '24
<b>**Aug. 16**</b>	Sep. 6	Sep. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 4 '24
Sep. 1	Sep. 20	Oct. 10	Oct. 25	<b>**Oct. 25**</b>	Nov. 15	Dec. 20	Mar. 18 '24
Sep. 15	Oct. 4	Oct. 24	Nov. 8	<b>**Nov. 8**</b>	Nov. 29	Jan. 3 '24	Apr. 1 '24
Sep. 29	Oct. 18	Nov. 7	Nov. 22	<b>**Nov. 22**</b>	Dec. 13	Jan. 17 '24	Apr. 15 '24
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<b>**Nov. 8**</b>	Nov. 29	Dec. 19	Jan. 3 '24	<b>**Jan. 3 '24**</b>	Jan. 24 '24	Feb. 28 '24	May 27 '24
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<b>**Dec. 20**</b>	Jan. 10 '24	Jan. 30 '24	Feb. 14 '24	Feb. 16 '24	Mar. 6 '24	Apr. 10 '24	July 8 '24

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
17	Friday, February 3, 2023	February 22, 2023
18	Friday, February 17, 2023	March 8, 2023
19	Friday, March 3, 2023	March 22, 2023

**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 Monday 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 working days in advance of the deadline.

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, February 13, 2023, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov). The following rules will be reviewed:

### AGING, DEPARTMENT ON[17]

Special dietary needs—physician assistants, 7.18(3) Filed **ARC 6782C**..... 1/11/23

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Pesticides—registration fees, 45.3 Filed **ARC 6783C**..... 1/11/23

Research facilities, 67.18 Filed **ARC 6785C**..... 1/11/23

Federal Wholesome Meat Act regulations, voluntary inspections of exotic animals—adoption by reference, 76.2, 76.13 Filed **ARC 6786C**..... 1/11/23

Motor fuel and antifreeze tests and standards—biodiesel blended fuels between B-20 and B-99, 85.33 Notice **ARC 6804C**, also Filed **Emergency** **ARC 6805C**..... 1/11/23

Advertisement of the price of liquid petroleum products for retail use—decals, octane rating, ethanol percentage by volume, 85.48 Filed **ARC 6784C**..... 1/11/23

Grain indemnity fund—per-bushel and participation fees, 93.8 Notice **ARC 6803C**..... 1/11/23

Hemp—320-acre limit, fee structure, sampling methodology, 96.1, 96.5, 96.7(9) Notice **ARC 6806C**, also Filed **Emergency** **ARC 6807C**..... 1/11/23

### BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]“umbrella”

Description of organization—scope, application, amendments to ch 1 Filed **ARC 6795C**..... 1/11/23

State banks—terms, applications, electronic activities, 2.2, 2.3, 2.5, 2.7(4), 2.18 Filed **ARC 6796C**..... 1/11/23

General definition of “bank,” 8.9 Filed **ARC 6797C**..... 1/11/23

Legal lending limits, 9.3(3)“a” Filed **ARC 6798C**..... 1/11/23

### ECONOMIC DEVELOPMENT AUTHORITY[261]

STEM BEST, targeted small business certification—program appropriations, physician assistants, amendments to ch 15, 52 Filed **ARC 6794C**..... 1/11/23

Endow Iowa tax credits, amendments to ch 47 Filed **ARC 6793C**..... 1/11/23

Brownfield and grayfield redevelopment—tax credits, amendments to ch 65 Filed **ARC 6792C**..... 1/11/23

State small business credit initiative (SSBCI), ch 112 Notice **ARC 6833C**..... 1/25/23

### ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Agency reorganization, rescind chs 1, 3, 5, 6, 13, 18 Filed **ARC 6826C**..... 1/11/23

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Beverage container deposits, 107.1 to 107.5, 107.7 to 107.9, 107.11 to 107.14 Filed **Emergency After Notice** **ARC 6791C**..... 1/11/23

### HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Iowa comprehensive plan, 9.1 to 9.4 Filed **ARC 6830C**..... 1/25/23

911 telephone systems, 10.2, 10.4(2), 10.9(3)“f,” 10.11(1)“c,” 10.14 Filed **ARC 6832C**..... 1/25/23

Repair, calibration, and maintenance of radiological monitoring, detection, and survey equipment, rescind ch 11 Filed **ARC 6831C**..... 1/25/23

Mass notification and emergency messaging system, 15.3(1), 15.4 Filed **ARC 6829C**..... 1/25/23

Report submissions, 104.1, 104.2 Filed **ARC 6828C**..... 1/25/23

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Managed care, ch 73 Notice **ARC 6808C**..... 1/11/23

Child-placing agencies—five-year review of rules, 108.1, 108.2, 108.4, 108.6(5)“d,” 108.7 to 108.9, 108.10(3)“c” Notice **ARC 6809C**..... 1/11/23

Licensing and regulation of foster family homes—definitions, communicable diseases, whooping cough vaccine religious exemption, amendments to ch 113 Notice **ARC 6836C**..... 1/25/23

Group living foster care facilities—five-year review of rules, amendments to ch 114 Notice **ARC 6837C**..... 1/25/23

Residential care facilities for children—contact time with caseworkers, chemical restraints, documentation regarding use of control room, 115.4(2)“a”(3), 115.5, 115.6(2), 115.7(2)“c” Notice **ARC 6838C**..... 1/25/23

Payments for foster care—five-year review of rules, 156.6, 156.7(2)“a,” 156.8, 156.10, 156.11, 156.14, 156.15 Notice **ARC 6810C**..... 1/11/23

Child care services—five-year review of rules, amendments to ch 170 Notice **ARC 6811C** ..... 1/11/23  
 Dependent adult abuse, amendments to ch 176 Notice **ARC 6839C** ..... 1/25/23

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Foster care facility inspections; confidential records, amend ch 5; rescind ch 40 Filed **ARC 6802C** ..... 1/11/23  
 Psychiatric medical institutions for children (PMIC), 41.1 to 41.4, 41.6, 41.9, 41.16(2)“b”  
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 Dependent adult abuse—five-year review of rules, 52.1 to 52.4, 52.7, 52.8 Filed **ARC 6801C** ..... 1/11/23  
 Health care facility self-identification and correction of a class II or III violation, 56.3(4)  
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 Intermediate care facilities for the intellectually disabled, amendments to ch 64 Notice **ARC 6812C** ..... 1/11/23

#### **INSURANCE DIVISION[191]**

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 Council on homelessness—composition, quorum, voting requirements, committees, duties,  
 amendments to ch 31 Notice **ARC 6818C** ..... 1/11/23  
 Housing renewal pilot program, ch 47 Notice **ARC 6819C** ..... 1/11/23

#### **IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

Contribution rates, administration—five-year review of rules, 1.3, 4.6, 6.3(15), 11.5, 11.7(6),  
 12.7, 16.2(3)“i” Notice **ARC 6823C** ..... 1/11/23

#### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

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 Wild turkey hunting—permitted weapons, 98.2(1)“a,” 98.12(1), 99.8(1) Filed **ARC 6787C** ..... 1/11/23  
 Deer hunting by residents—antlerless-deer-only seasons, deer depredation licenses, 106.1(6),  
 106.2(5), 106.4(5), 106.6(4), 106.7(5), 106.11(4) Filed **ARC 6788C** ..... 1/11/23  
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#### **NATURAL RESOURCES DEPARTMENT[561]**

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#### **PAROLE BOARD[205]**

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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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#### **PUBLIC HEALTH DEPARTMENT[641]**

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Time of meetings, 2.2 Notice **ARC 6817C** ..... 1/11/23

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 Attorney claims for indigent defense services, 12.2, 12.4(1), 12.5(1), 12.6(2), 12.8(1)“a”  
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**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

Representative Megan Jones  
Chair  
House District 6

Senator Nate Boulton  
Senate District 20

Representative Amy Nielsen  
House District 85

Senator Mike Boussetot  
Senate District 21

Representative Rick Olson  
House District 39

Senator Waylon Brown  
Senate District 30

Representative Mike Sexton  
House District 7

Senator Pam Jochum  
Senate District 36

Representative David Young  
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**Administrative Rules Coordinator**  
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Des Moines, Iowa 50319  
Telephone: 515.281.5211

**INSURANCE DIVISION[191]**

Pharmacy benefits managers,  
59.2, 59.8(5), 59.11  
IAB 1/11/23 **ARC 6825C**

1963 Bell Ave., Suite 100  
Des Moines, Iowa

February 2, 2023  
1 to 3 p.m.

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates,  
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review of rules, 1.3, 4.6,  
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IPERS  
7401 Register Dr.  
Des Moines, Iowa

February 1, 2023  
10 a.m. to 12 noon

**NATURAL RESOURCE COMMISSION[571]**

Furbearer hunting,  
trapping—season dates, 108.1  
to 108.9  
IAB 1/11/23 **ARC 6815C**

Conference Room 4E  
Wallace State Office Bldg.  
Des Moines, Iowa

February 6, 2023  
12 noon to 1 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Barbers—examination  
registration process, fees,  
5.2, 21.2(1)“e,” 21.3, 21.9(3),  
21.11(1), 21.16(2), 21.17(2)  
IAB 1/11/23 **ARC 6814C**

Via video/conference call  
[us02web.zoom.us/j/84820470659?pwd=dVN2Q3AvS21XcHV5cS9SSmlSYXFIZz09](https://us02web.zoom.us/j/84820470659?pwd=dVN2Q3AvS21XcHV5cS9SSmlSYXFIZz09)  
Meeting ID: 848 2047 0659  
Passcode: 911371  
Via telephone: 1.312.626.6799

January 31, 2023  
9:30 to 10 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Commercial driver's  
license—adoption by reference  
of federal regulations,  
520.1(1), 529.1, 607.10(1)“d,”  
607.49(6)“f”  
IAB 1/11/23 **ARC 6822C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

February 2, 2023  
1 p.m.  
(If requested)

Driver's license issuance,  
amendments to ch 605  
IAB 1/11/23 **ARC 6821C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

February 2, 2023  
9 a.m.  
(If requested)



The following list will be updated as changes occur.

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

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

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

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## ARC 6833C

## ECONOMIC DEVELOPMENT AUTHORITY[261]

## Notice of Intended Action

**Proposing rule making related to state small business credit initiative and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt new Chapter 112, “State Small Business Credit Initiative (SSBCI),” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.108.

*Purpose and Summary*

On October 11, 2022, the United States Department of the Treasury (Treasury) allocated \$96 million to the State of Iowa from the State Small Business Credit Initiative (SSBCI). The Authority will administer the funds through the following four programs approved by the Treasury:

- A loan participation program for Manufacturing 4.0 investments.
- A small business collateral support program.
- A venture capital innovation fund program.
- A venture capital co-investment fund program.

The proposed new Chapter 112 outlines eligible uses of the funds and distinguishes the 2022 allocation from funds previously allocated to the State through the SSBCI in 2011. The 2011 allocation is addressed in 261—Chapter 117.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond the federal funding allocated to the State by the Treasury.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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

*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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Adopt the following **new** 261—Chapter 112:

CHAPTER 112  
STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI)

**261—112.1(15) Purpose.** The purpose of this chapter is to establish the eligible uses of the funds allocated to the state of Iowa on October 11, 2022, from the State Small Business Credit Initiative established by the United States Department of the Treasury. The funds are administered by the authority.

**261—112.2(15) Definitions.** For purposes of this chapter, unless the context otherwise requires:

“*Allocation*” means the funds allocated to the state of Iowa on October 11, 2022, from the SSBCI by the Treasury. “*Allocation*” does not include any funds allocated to the state of Iowa from the SSBCI prior to October 11, 2022.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*SSBCI*” means the State Small Business Credit Initiative established by the Treasury.

“*Treasury*” means the United States Department of the Treasury.

**261—112.3(15) Federal requirements.** The allocation will be administered in accordance with all applicable federal laws, regulations, and guidance, including but not limited to any reporting requirements. The allocation will also be administered in accordance with any agreements between the state and Treasury relating to the SSBCI.

**261—112.4(15) Eligible uses.** Eligible uses of the allocation include the following:

1. A loan participation program for manufacturing 4.0 investments.
2. A small business collateral support program.
3. A venture capital innovation fund program.
4. A venture capital co-investment fund program.
5. Any other purposes approved by the Treasury.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—112.5(15) Delegation of certain administrative functions.** The authority may delegate certain administrative functions of the program to service providers who have entered into an agreement with the authority to provide such services. Functions that may be delegated pursuant to this rule include but are not limited to initial application review, tracking and monitoring of the applicant's progress, tracking and monitoring of contract terms and conditions, and provision of technical assistance to applicants. The authority will retain, and not delegate, any other function not delegated to a service provider pursuant to any agreement entered into between the authority and a service provider.

These rules are intended to implement Iowa Code section 15.108(9) "b."

**ARC 6836C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rule making related to licensing and regulation of foster family homes and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 113, "Licensing and Regulation of Foster Family Homes," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 237.3.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 237.3.

#### *Purpose and Summary*

Chapter 113 was reviewed as part of the Department's five-year rules review. Chapter 113 provides the administrative rules for the licensing and regulation of foster family homes.

The rules review resulted in the following proposed changes:

- New definitions for kin and "fictive kin" are being added due to an increase in kin and fictive kin becoming licensed foster parents and to align with Iowa Code chapter 237.
- The definition of "child or children" is being updated to mean the child or children who are in foster care for the purpose of this chapter only.
- "Foster" is being removed from each reference to "foster child" as placement also includes relative/fictive kin placements and it can be confusing if the term "foster care" is used.
- Communicable disease language is being added to replace HIV language.
- Whooping cough vaccine requirements are being updated to allow religious exemptions.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg  
 Department of Human Services  
 Hoover State Office Building, Fifth Floor  
 1305 East Walnut Street  
 Des Moines, Iowa 50319-0114  
 Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Child or children,” “Fictive kin,” “Kinship care,” “Kinship caregiver,” “Relative,” “Variance” and “Waiver” in rule **441—113.2(237)**:

“*Child or children*” means the child or children who are in foster care for the purpose of this chapter only.

“*Fictive kin*” means an adult person who is not a relative of a child but who has an emotionally significant positive relationship with a child or the child’s family.

“*Kinship care*” means the care of a child by a relative or fictive kin providing full-time nurturing and protection.

“*Kinship caregiver*” means a relative or fictive kin providing care for a child.

“*Relative*” means an individual related to the child within the fourth degree of consanguinity or affinity, by marriage, or through adoption. “Relative” includes the parent of a sibling of the child if the sibling’s parent’s parental rights were not previously terminated in relation to the child.

“*Variance*” means meeting a licensing standard through alternative means.

“*Waiver*” means waiving the licensing standard entirely. A waiver may only be granted for non-safety licensing standards for a kinship caregiver.

ITEM 2. Amend rule **441—113.2(237)**, definitions of “Corporal punishment,” “Foster family home” and “Reasonable and prudent parent standard,” as follows:

“*Corporal punishment*” means the intentional physical punishment of ~~a foster child~~ the child(ren).

“*Foster family home*” means a home in which an individual person or persons or a married couple who wishes to provide or is providing, for a period exceeding 24 consecutive hours, board, room, and care for ~~a child~~ the child(ren) in a single family living unit.

“*Reasonable and prudent parent standard*” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of ~~a child~~ the child(ren) while at the same time encourage the emotional and developmental growth of the ~~child~~ child(ren), that a caregiver

## HUMAN SERVICES DEPARTMENT[441](cont'd)

shall use when determining whether to allow ~~a child~~ the child(ren) in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. For the purposes of this definition, “caregiver” means a foster parent with whom ~~a child~~ the child(ren) in foster care ~~has~~ have been placed or a designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which ~~a child~~ the child(ren) in foster care ~~has~~ have been placed.

ITEM 3. Amend paragraphs **113.3(1)“a”** to **“d”** as follows:

- a. Form 595-1396, ~~DHS Criminal History Record Check~~, for each person living in the home who is 14 years of age or older, as required by rule 441—113.13(237).
- b. Form 470-0720, ~~Physician’s Report for Foster and Adoptive Parents~~, to satisfy the requirements of rule 441—113.11(237).
- c. Form 470-0693, ~~Foster Care Private Water Supply Survey~~, if applicable.
- d. Form ~~470-4657, Floor Plan~~ 470-5097. The applicant or the recruitment and retention provider shall complete a drawing of the floor plan of the family’s home.

ITEM 4. Amend subrules 113.3(4) and 113.3(5) as follows:

**113.3(4) Home study.** The worker for the recruitment and retention contractor shall complete a family home study.

a. *Process.* Information for the home study is gathered primarily through the required preservice training as described in rule 441—117.1(237). Tribal agencies may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C.A. Section 671(a)(26)(B) provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.

(1) The worker shall hold at least ~~two~~ three face-to-face interviews with the applicant with one of the interviews taking place in the applicant’s home.

(2) The worker shall hold at least one face-to-face interview with each member of the household in the applicant’s home to observe family functioning and to assess the family’s capacity to meet the needs of ~~a child~~ the child(ren) in foster care. The worker will determine whether to interview or just observe each household member based on the household member’s age and development.

(3) A physical inspection of the home is required. The worker shall use ~~the Foster Family Survey Report Form 470-0695~~ to complete the physical inspection of the home to verify compliance with the licensing and regulation standards in this chapter.

(4) Reference checks shall be conducted as described at rule 441—113.14(237).

b. *Family assessment topics.* The assessment of the prospective foster family shall evaluate the family’s ability to parent ~~a~~ the special needs ~~child~~ child(ren). The assessment shall include the following:

(1) The applicant’s motivation for foster care and whether the family has biological, adopted, or foster ~~children~~ child(ren).

(2) The attitude of the family and the extended family toward accepting ~~a foster child~~ the child(ren).

(3) and (4) No change.

(5) Medical, mental, and emotional conditions that may affect the applicant’s ability to parent ~~a child~~ the child(ren); treatment history; current status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health or substance abuse issues, or both. The department may require further documentation or evaluation, or both, to determine the suitability of the home.

(6) ~~All children~~ Any child(ren) who are household members must be up to date on immunizations jointly recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the ~~child’s~~ child(ren)’s health as documented by a licensed health care professional.

(7) An evaluation of the applicant’s willingness to accept ~~a child~~ the child(ren) who ~~has~~ have medical problems (such as ~~HIV~~ a communicable disease), an intellectual disability, or emotional or behavioral problems. The applicant shall complete the department form to indicate choices about caring

## HUMAN SERVICES DEPARTMENT[441](cont'd)

for ~~children~~ any child(ren) who have or are at risk for ~~HIV infection~~ a communicable disease and other medical problems.

(8) The applicant's ability to provide for ~~a child's~~ the child(ren)'s physical, medical, and emotional needs; ~~and to respect the child's~~ child(ren)'s ethnic and religious identity; ~~and to support the child(ren)'s overall well-being.~~

(9) The safety of ~~foster children~~ the child(ren) in relation to any animals that live on the applicant's property.

(10) The adjustment of any ~~children~~ child(ren) in the home, including their attitudes toward foster care and adoption, relationships with others, and school performance.

(11) No change.

(12) The applicant's financial information and ability to provide for ~~a child~~ the child(ren).

(13) The applicant's attitude toward the ~~foster child's~~ birth parents and siblings of the child(ren) placed in foster care.

(14) The applicant's commitment to and capacity to maintain ~~a foster child's~~ significant relationships of the child(ren) in foster care and work with the ~~child's~~ child(ren)'s parents when the permanency goal is reunification.

(15) to (17) No change.

*c. Written report.* The recruitment and retention contractor shall prepare a written report of the family assessment using Form 470-5436, ~~Resource Parent Home Study~~. ~~The Resource Parent Home Study Form 470-5436~~ shall include a recommendation for the number, age, sex, characteristics, and special needs of ~~a child or children~~ the child(ren) the family can best parent and any other pertinent information in making the licensing recommendation. The home study shall be maintained in the foster family record.

**113.3(5) Decision.** The department worker shall use the home study to approve or deny a prospective family as an appropriate placement for ~~a child or children~~ the child(ren). The department worker shall notify the family of the licensing decision using Form 470-0709, ~~Notice of Action: Foster Family Home~~.

*a.* Upon approval, the department shall issue the applicant a foster family home license as described at rule 441—112.4(237). The license shall indicate the licensed capacity for the number of ~~foster children~~ child(ren) approved for placement in the foster family home under subrule 113.4(1).

*b.* No change.

ITEM 5. Amend rule 441—113.4(237) as follows:

**441—113.4(237) Provisions pertaining to the license.** On a case-by-case basis, the service area manager or area social work administrator may waive any non-safety licensing standard for a kinship caregiver or grant a variance for any standard for a non-kinship caregiver in this chapter unless:

1. No change.

2. The waiver or variance could have a negative impact on the safety and well-being of ~~a child~~ the child(ren) placed in the foster family home.

**113.4(1) Number of children.** A foster family home may care for up to five children unless a variance is approved as described in this rule. The license capacity shall be based on the number of the foster family's biological and adoptive children and any relative placements. The license shall be issued for at least one child. ~~A child~~ Any child(ren) who ~~has~~ has reached the age of 18 and ~~remains~~ remain eligible for foster family care shall be included in the license capacity. Any variance to this rule must:

*a.* and *b.* No change.

*c.* Meet one of the following criteria:

(1) The foster parents have three or more children in the home and have shown the ability to parent a large number of children. A licensing variance may be approved at initial or renewal licensure to allow the placement of up to three ~~foster~~ children as set forth in the chart below:



## HUMAN SERVICES DEPARTMENT[441](cont'd)

No. of Children in the Home (birth/relative/adoptive placements)	Maximum License Capacity:	
	Without variance	With variance
0 children	5	Not applicable
1 child	4	Not applicable
2 children	3	Not applicable
3 children	2	3
4 children	1	3
5 or more children	Not applicable	3

(2) A variance beyond the maximum capacity of the foster home license is needed for the placement of a specific child in foster family care. A child-specific variance shall end when that child leaves the placement or any other change brings the family into licensed capacity. Unless a variance is needed for the placement of a sibling(s) of a ~~foster child~~ the child(ren) already in the home, or to keep siblings together, the maximum number of children in the home shall not exceed eight. On a case-by-case basis, if it is determined the foster parents have shown the parenting skills and have the social support system to meet the children's needs for parenting more than eight children, the social work administrator shall approve the foster parents to parent more than eight children. A foster family may have both a licensing and a child-specific variance concurrently.

d. No change.

**113.4(2)** and **113.4(3)** No change.

This rule is intended to implement Iowa Code sections 237.3 and 237.5.

ITEM 6. Amend subrules 113.5(1) to 113.5(3) as follows:

**113.5(1) General standards.** The foster home shall be safe, clean, well ventilated, properly lighted, properly heated, and free from vermin and rodents to ensure the well-being of the ~~foster children~~ child(ren) residing in the home.

**113.5(2) Grounds.**

a. There shall be safe outdoor space provided according to the age and developmental needs of the ~~foster child~~ child(ren) for active play. The area available shall be documented in the case record.

b. The ~~foster child~~ child(ren) shall be adequately supervised and protected against hazards including, but not limited to, traffic, bodies of water, railroads, waste material, and contaminated water. The foster parent shall provide environmental protections such as door alarms, baby monitors, fences, and foliage barriers as necessary to promote a safe environment.

c. The applicant's home must meet the following standards concerning swimming pools, hot tubs and spas:

(1) A child's plastic pool shall be drained daily and shall be inaccessible to ~~children~~ the child(ren) when it is not in use. Swimming pools must have a barrier on all sides at least four feet high.

(2) to (4) No change.

(5) Hot tubs and spas must have safety covers that are locked when not in use.

The foster parent or other adult shall provide reasonable supervision according to the ages and swimming abilities of the ~~foster children~~ child(ren) when they are using the pool.

**113.5(3) Bedrooms for ~~foster children~~ child(ren) placed in the home.**

a. Bedrooms shall either have been constructed for the purpose of providing sleeping accommodation or remodeled for sleeping to provide proper heat and ventilation. Bedroom additions to a home shall meet building code requirements. All bedrooms used by ~~foster children~~ the child(ren) placed in the home shall have:

(1) and (2) No change.

(3) An unobstructed, operable window that opens from the inside that is large enough to allow for an unrestricted exit by a ~~foster child~~ the child(ren) placed in the home;

(4) A closet, wardrobe, armoire, or dresser for the ~~child's~~ child(ren)'s clothes; and

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) A standard bed, for infants and toddlers who cannot safely use a standard bed, a crib or crib-like furniture which has a waterproof mattress covering and sufficient bedding to enable ~~a child~~ the child(ren) to rest comfortably and which meets the current standards or recommendations from the U.S. Consumer Product Safety Commission or ASTM International for juvenile products for each child under two years of age if developmentally appropriate. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Safe infant sleep practices shall conform to the following standards:

1. and 2. No change.

3. Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface. No ~~child~~ child(ren) shall be allowed to sleep in any item not designed for sleeping. This is not referring to a child in a car seat in a car.

4. to 6. No change.

b. The minimum bedroom area per child shall be 40 square feet. However, the service area manager or designee may approve a ~~smaller room size~~ waiver of this non-safety licensing standard for kinship caregivers or a variance when approval is in the best interest of specific children placed or to be placed in the home. Such approvals shall:

(1) No change.

(2) Contain the names and birth dates of the ~~children~~ child(ren) for whom issued; and

(3) No change.

c. No change.

d. The ceiling height for bedrooms shall be adequate for the ~~child~~ child(ren).

e. Except for baby video monitors for ~~children~~ the child(ren) birth to two years of age used in their bedrooms, video or surveillance cameras are not allowed in ~~children's~~ the child(ren)'s bedrooms or bathrooms.

f. Bedrooms belowground shall:

(1) to (3) No change.

(4) Have provisions, such as a ladder or steps, to ensure that the ~~foster child~~ child(ren) can safely reach the window if the finished sill height is more than 44 inches above the floor and that the ~~foster child~~ child(ren) can safely reach ground level if there is a window well that has a depth of 44 inches or higher;

(5) and (6) No change.

ITEM 7. Amend subrules 113.5(6) to 113.5(8) as follows:

**113.5(6)** *Physical care standards for ~~foster children~~ child(ren).*

a. Grouping children in bedrooms shall take into consideration the age and sex of ~~children~~ the child(ren), including the individual child's need for privacy.

(1) ~~Children~~ Any child(ren) over five years of age shall not share a bedroom with a ~~child~~ child(ren) of the opposite sex.

(2) ~~Foster children~~ The child(ren) shall not share a bed with any other child. The social work administrator may approve a waiver of this policy for kinship caregivers or a variance for non-kinship caregivers.

b. ~~Children~~ Any child(ren) two years of age or older shall be provided bedroom space other than in the foster parents' bedroom. ~~Foster children~~ Any child(ren) under the age of two may share a bedroom with the foster parent in an individual crib.

c. There shall be a plan for isolating the healthy ~~children~~ child(ren) from a child who is ill or suspected of having a contagious disease.

d. The foster home shall provide food with good nutritional content and in sufficient quantity to meet the individual needs of the ~~children~~ child(ren).

e. Personal care items must be provided for youth, and these items must reflect the individual, cultural, racial, and ethnic needs of the youth living in the foster home.

e.f. Bedding shall be clean, odor-free, and free of urine and feces.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~f. g.~~ Foster parents shall follow universal precautions to reduce exposure to bloodborne pathogens and other infectious materials when providing care to ~~all children~~ any child(ren) placed in their physical custody.

~~g. h.~~ Smoking and vaping shall be prohibited in the foster home or any vehicle when the ~~foster child is~~ child(ren) are present.

**113.5(7) *Lead-based paint.*** If the applicant lives in a home built before ~~1960~~ 1978, the applicant shall submit Form 470-4819, ~~Lead Paint Assessment~~, certifying that the applicant:

a. and b. No change.

**113.5(8) *Artificial lighting.*** Adequate artificial lighting fixtures shall be provided for study in areas where ~~children~~ the child(ren) will be studying.

ITEM 8. Amend subrule 113.5(11) as follows:

**113.5(11) *Ventilation.*** Ventilation shall be provided in all rooms where ~~foster children~~ the child(ren) eat, sleep, and play either by windows which can be opened or by mechanical venting systems. Windows and doors used for ventilation shall be screened.

ITEM 9. Amend subrule 113.6(3) as follows:

**113.6(3) *Private water supply.***

a. ~~Each privately operated water supply shall be tested prior~~ Prior to initial licensure and ~~tested before prior to each~~ license renewal, each privately operated water supply shall be tested and evaluated for obvious deficiencies, such as open or loose well tops or platforms and poor drainage around the wells.

b. As part of the evaluation, water samples must be collected and submitted by the licensing worker or health sanitarian to the university hygienic laboratory or other laboratory certified by the hygienic laboratory and analyzed for coliform bacteria. In order for a foster family home to be licensed for the care of ~~children~~ any child(ren) under two years of age, the nitrate (NO<sup>3</sup>) content must be analyzed.

c. and d. No change.

e. When the water sample is not approved, no foster family home license shall be issued until the foster parents provide a written statement that ~~foster children~~ the child(ren) will be provided potable water, including where the water will be obtained and how it will be transported and stored.

(1) The statement shall be provided on Form 470-0699, ~~Provisions for Alternate Water Supply~~.

(2) No change.

ITEM 10. Amend paragraph **113.7(1)“a”** as follows:

a. At least one UL (Underwriter's Laboratory)-approved smoke detector. On floors that are used for sleeping, the smoke detector shall be in a location where sleeping areas can be alerted. For any deaf or hard-of-hearing ~~children~~ child(ren), the foster parent shall install a smoke detector in the ~~child's~~ child(ren)'s bedroom that will use an alternative means of waking the ~~child~~ child(ren).

ITEM 11. Amend paragraph **113.7(2)“b”** as follows:

b. Explosives and flammable substances shall be stored securely and be inaccessible to ~~a child~~ the child(ren). Matches and lighters shall be inaccessible to ~~a child~~ the child(ren).

ITEM 12. Amend subrule 113.7(3) as follows:

**113.7(3) *Safety plan.*** The family shall have an emergency safety plan to be used for fire, tornado, blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for ~~children~~ the child(ren) in out-of-home placements. The safety plans shall state the action that the foster parents and ~~children~~ the child(ren) are to take in each situation that may occur and shall be posted in a prominent place in the home.

a. The safety plans for fire and tornadoes shall be reviewed with ~~foster children~~ the child(ren) at the time of placement. Fire and tornado plans shall be practiced with the ~~foster children~~ child(ren) within one week of placement and no less than annually thereafter.

b. to d. No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 13. Amend paragraph **113.7(4)“a”** as follows:

a. All prescription medication shall be administered as prescribed and documented in a medication log that is given to the ~~child's~~ child(ren)'s department caseworker when the ~~child leaves~~ child(ren) leave the placement.

ITEM 14. Amend paragraph **113.7(4)“c”** as follows:

c. Applicants must prevent the ~~child's~~ child(ren)'s access, as appropriate for the ~~child's~~ child(ren)'s age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages.

ITEM 15. Amend subrules 113.7(5) to 113.7(9) as follows:

**113.7(5) Weapons.** All weapons, firearms, and ammunition shall be inaccessible to a ~~child~~ the child(ren) of any age.

a. The following weapons must be stored in an inoperative condition in a locked area inaccessible to ~~children~~ the child(ren):

(1) to (5) No change.

b. No change.

c. The weapons, firearms, and ammunition storage ~~unit~~ units shall not share the same key or matching security code. If a key is used, the key shall be stored in a place inaccessible to the ~~foster-child~~ child(ren).

d. Any motor vehicles used to transport ~~foster-children~~ the child(ren) shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

e. Foster parents who have a permit to carry a firearm shall sign Form 470-4657, ~~Firearms Safety Plan~~. Foster parents who have firearms but do not have a permit to carry shall complete the safety plan section of ~~the Firearms Safety Plan form~~ Form 470-4657.

f. No change.

**113.7(6) Transporting ~~foster-children~~ child(ren).**

a. Foster parents will ensure that if a privately owned vehicle, owned by the applicants, family or friends, is used to transport the ~~child~~ child(ren) in foster care, it must be inspected (if applicable under state law), registered, and insured and meet all applicable state or tribal requirements to be an operable vehicle on the road.

b. No change.

c. Safety restraints will be used that are appropriate to the ~~child's~~ child(ren)'s age, height, and weight.

d. Any motor vehicles used to transport ~~foster-children~~ the child(ren) shall be smoke-free when ~~foster-children~~ the child(ren) are being transported.

e. Weapons must not be transported in any vehicle in which the ~~child is~~ child(ren) are riding unless the weapons are made inoperable and inaccessible.

f. No change.

**113.7(7) Supervision.** The foster parents shall provide reasonable and prudent supervision of ~~foster children~~ the child(ren) to ensure ~~their~~ the child(ren)'s safety.

a. Foster parents shall adequately supervise ~~foster-children~~ the child(ren) while the ~~children~~ child(ren) are using any hazardous or dangerous objects or equipment. In order for ~~foster-children~~ the child(ren) to participate in age- or developmentally appropriate activities, the foster parent would apply the reasonable and prudent parent standard.

b. Foster parents shall use reasonable and prudent supervision of ~~foster-children~~ the child(ren) when the ~~foster-children~~ child(ren) are using the Internet or other social media.

**113.7(8) Household pets.** Household pets and any outdoor animals or pets accessible to ~~foster children~~ the child(ren) shall have a current veterinary health certificate verifying that the animal's routine immunizations, e.g., rabies, are current.

a. No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*b.* Foster parents who have pets or animals with any history of aggression shall have a written plan that addresses strategies to reduce the risk of aggression by their pets or animals with which the ~~child~~ child(ren) will have contact.

*c.* Foster parents will complete a written plan on how they will introduce a pet to the child(ren).

~~*e.*~~ *d.* Animal waste will be contained and disposed of on a routine basis.

**113.7(9) Liability.** Foster parents who apply the reasonable and prudent parent standard reasonably and in good faith in regard to a ~~foster child~~ the child(ren) placed in their home shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

ITEM 16. Amend subrules 113.8(1) and 113.8(2) as follows:

**113.8(1) Preservice training.** All foster parent applicants shall complete the following training before licensure and the placement of a ~~child in foster care~~ the child(ren) in their home:

*a.* and *b.* No change.

*c.* Preservice training, which shall include:

(1) and (2) No change.

(3) Mandatory reporter training on child abuse identification, ~~and~~

(4) The reasonable and prudent parent standard training, ~~and~~

(5) Lessons teaching foster parents how to support a child's overall well-being and emotional needs;  
and

*d.* No change.

**113.8(2) In-service training.** All licensed foster parents shall complete six hours of in-service training annually as required by rule 441—117.7(237).

Each foster parent shall maintain certification in face-to-face CPR and first-aid training.

ITEM 17. Amend rules 441—113.9(237) to 441—113.11(237) as follows:

**441—113.9(237) Involvement of kin.**

**113.9(1) Support by foster parents.** Foster parents shall support the involvement of biological or adoptive parents and other relatives of the ~~foster child~~ child(ren) unless this involvement is evaluated and documented by the department to be detrimental to the ~~child's~~ child(ren)'s well-being.

**113.9(2) Nature of involvement.** The extent and nature of the involvement of the biological or adoptive parents and other relatives shall be determined by the caseworker in consultation with the foster parents, biological or adoptive parents, and others involved with the ~~child~~ child(ren) and family.

**113.9(3) Cultural connections.** Throughout the provision of care, the foster family shall actively ensure that the ~~foster child stays~~ child(ren) stay connected to the ~~child's~~ child(ren)'s kin, culture, and community as required in the ~~child's~~ child(ren)'s case permanency plan.

This rule is intended to implement Iowa Code section 237.3.

**441—113.10(237) Information on the ~~foster child~~ child(ren) placed in the home.**

**113.10(1) ~~Foster child information~~ Information about the child(ren).** Foster parents shall maintain a separate folder of information on ~~each foster child~~ the child(ren) placed in the ~~foster family~~ home. This folder shall be provided to the department or the ~~child's~~ child(ren)'s parent or guardian when the ~~child~~ leaves child(ren) leave the placement. The folder shall contain:

*a.* The names and addresses of all doctors, mental health professionals, and dentists who have treated the ~~foster child~~ child(ren); current medications prescribed, including over-the-counter medications; medication log; and the type of medical, dental, vision, and mental health treatments and hearing examinations received while the ~~foster child is~~ child(ren) are in the foster home.

*b.* No change.

*c.* Date the ~~child~~ child(ren) left the placement.

*d.* Name, address, and telephone number of the person to whom the ~~child is~~ child(ren) are discharged.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**113.10(2) Confidentiality.** Foster parents shall maintain confidentiality regarding ~~a child~~ the child(ren) in placement except as required to comply with rules on mandatory reporting of child abuse and with the ~~child's~~ child(ren)'s case permanency plan. Foster parents shall not without parent or guardian and department consent post pictures or information concerning ~~a foster child~~ the child(ren) on any Internet ~~Web site~~ website or on social media.

This rule is intended to implement Iowa Code section 237.7.

**441—113.11(237) Health of foster family.**

**113.11(1) Health report required.** The foster parents shall furnish the licensing agency with a health report on the family completed no more than six months before the application for licensure. The report shall include information on all family members, including foster parents, their minor ~~children~~ child(ren) who reside in the home, and adult household members. An updated report shall be provided upon request of the department licensing worker or the recruitment and retention contractor.

**113.11(2) Contents of report.** This report shall include a statement from ~~the~~ an impartial health practitioner that there are no physical or mental health problems which would be a hazard to ~~foster children~~ the child(ren) placed in the home and a statement that the foster parents' health would not prevent needed care from being provided to the ~~child~~ child(ren).

**113.11(3) Whooping cough vaccine.** All adult household members who are caregivers must have up-to-date whooping cough vaccines unless contrary to the person's health or sincerely held religious belief.

**113.11(4) Exemption from whooping cough vaccine.** Nothing in this rule shall be construed to require the whooping cough vaccine for adult household members who are a member of a church or religious organization which is against vaccinations. In such instance, a notarized statement from the household member shall be incorporated into the health record.

~~113.11(4)~~ **113.11(5) Capability for caring for the child(ren).** If there is evidence that the foster parent is unable to provide necessary care for the ~~child~~ child(ren), the department licensing worker, the recruitment and retention contractor, or the physician may require additional medical and mental health reports, including a substance abuse evaluation.

This rule is intended to implement Iowa Code section 237.7.

ITEM 18. Amend subrules 113.12(3) to 113.12(5) as follows:

**113.12(3) Religious considerations.** The foster parent shall respect the ~~foster child's~~ child(ren)'s religious background and affiliation.

**113.12(4) Requirements of foster parents.** Foster parents shall be stable, responsible, physically able to care for the type of ~~child~~ child(ren) placed, mature individuals who are not unsuited by reason of substance abuse, lewd or lascivious behavior or other conduct likely to be detrimental to the physical or mental health or morals of the ~~child~~ child(ren). They shall exercise good judgment in caring for ~~children~~ the child(ren) and have a capacity to accept agency supervision.

**113.12(5) Personal characteristics.** The foster parents shall:

- a. No change.
- b. Have realistic expectations of ~~foster children~~ the child(ren).
- c. Have time available to parent ~~foster children~~ the child(ren).
- d. to f. No change.
- g. Include ~~foster children~~ the child(ren) in normal family life.
- h. Have the ability to be accepting and loving toward ~~a foster child~~ the child(ren) entering the home.
- i. Be able to support the case permanency plan for the ~~foster child~~ child(ren) and be willing to cooperate with visits, transportation, or other activities that support the ~~child's~~ child(ren)'s connection to and reunification with the ~~child's~~ child(ren)'s family.
- j. Ensure that all family members are aware of having ~~foster children~~ the child(ren) in the home.
- k. Articulate their strengths and concerns and limitations which are essential to the department's matching the ~~foster children~~ child(ren) with foster parents appropriately.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 19. Amend rule 441—113.13(237), introductory paragraph, as follows:

**441—113.13(237) Record checks.** Record checks are required for each foster parent applicant and for anyone who is 14 years of age or older living in the home of the applicant. The purpose of the record checks is to determine whether any of these persons has any founded child abuse or dependent adult abuse reports or criminal convictions or has been placed on the sex offender registry.

ITEM 20. Amend subparagraphs **113.13(1)“a”(1)** and **(2)** as follows:

(1) The Iowa central abuse registry, using Form 470-0643, ~~Request for Child and Dependent Adult Abuse Information;~~

(2) The Iowa division of criminal investigation, using Form 595-1396, ~~DHS Criminal History Record Check, Form B;~~

ITEM 21. Amend subparagraphs **113.13(2)“a”(1)** and **(2)** as follows:

(1) A felony offense as set forth in Iowa Code section ~~237.8(2)“a”(4)~~ 237.8(2)“a”(3); or

(2) A crime in another state that would be a felony as set forth in Iowa Code section ~~237.8(2)“a”(4)~~ 237.8(2)“a”(3).

ITEM 22. Renumber subparagraphs **113.13(2)“b”(3)** to **(5)** as **113.13(2)“b”(4)** to **(6)**.

ITEM 23. Adopt the following **new** subparagraph **113.13(2)“b”(3)**:

(3) The circumstances under which the crime or founded abuse was committed,

ITEM 24. Amend paragraph **113.13(2)“c”** as follows:

*c. Evaluation form.* The person with the founded child or dependent adult abuse or criminal conviction report shall complete and return Form 470-2310, ~~Record Check Evaluation~~, within ten calendar days of the date of receipt to be used to assist in the evaluation. Failure of the person to complete and return Form 470-2310 within the specified time frame shall result in denial of licensure.

ITEM 25. Amend subrule 113.13(3) as follows:

**113.13(3) Evaluation decision.** ~~The service area manager~~ Centralized service area staff or designee shall conduct the evaluation and make the decision. The department shall issue Form 470-2310, ~~Record Check Evaluation~~, to inform the subject of the decision and describe the basis of the decision using the criteria specified in paragraph 113.13(2)“b.” The department shall mail the form to the person on whom the evaluation was completed:

*a.* Within 30 days of receipt of the completed Form 470-2310, ~~Record Check Evaluation~~, or

*b.* No change.

ITEM 26. Amend paragraph **113.14(4)“b”** as follows:

*b.* Personal qualities of the applicant including the general character, ability to get along with others, ability to deal with ~~children’s~~ the child(ren)’s problem behavior, ability to give affection and care, discussion of use of drugs and alcohol, and questions regarding personal difficulties that could be detrimental to a ~~foster child~~ the child(ren).

ITEM 27. Amend paragraph **113.14(4)“f”** as follows:

*f.* Would the reference feel comfortable leaving a ~~child~~ the child(ren) in this home for a period of time?

ITEM 28. Amend subrule 113.15(1) as follows:

**113.15(1)** The department’s recruitment and retention contractor shall make unannounced visits during periods of the day when the ~~child~~ child(ren) and foster parents would normally be at home and awake, unless there has been a specific complaint about the family and care of the ~~child~~ child(ren).

ITEM 29. Amend paragraphs **113.15(2)“c”** to **“e”** as follows:

*c.* Interaction between the ~~foster child~~ child(ren) and foster family and their ~~children~~ child(ren).

*d.* The ~~foster child’s~~ child(ren)’s perception of the foster parents, other ~~children~~ child(ren) and adults in the home, behavioral expectations of foster parents, discipline used by foster parents, religious training, school, contact with natural parents, and purpose of placement in foster care.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*e.* The foster parents' view of the ~~child~~ child(ren), the ~~child's~~ child(ren)'s problem, placement worker's involvement, plan for the ~~child~~ child(ren), involvement of ~~natural~~ biological parents, and additional services that either the ~~foster-child~~ child(ren) or foster parents need.

ITEM 30. Amend subrule 113.15(4), introductory paragraph, as follows:

**113.15(4)** The findings from the unannounced visit shall be summarized on Form 470-5438, ~~Progress~~ Notes.

ITEM 31. Amend subrule 113.15(5) as follows:

**113.15(5)** Actions after the unannounced visit.

*a.* When deficiencies are cited that do not appear likely to cause immediate physical or mental harm to the ~~child~~ child(ren), an additional visit may be scheduled. The department licensing worker and the recruitment and retention contractor shall discuss the deficiencies with the foster parents and make plans for improving the deficiencies.

*b.* When the reported deficiencies raise questions of concern as to the quality of care provided, the recruitment and retention contractor shall:

(1) Report deficiencies to the department licensing worker and to the placement worker for ~~each~~ any child(ren) currently placed in the home;

(2) No change.

*c.* When the reported deficiencies appear likely to cause immediate physical or mental harm to the ~~child~~ child(ren), the service area manager or designee shall immediately:

(1) Direct the placement worker to determine if the ~~child~~ child(ren) should be removed, and

(2) No change.

ITEM 32. Amend rules 441—113.16(237) to 441—113.20(237) as follows:

**441—113.16(237) Planned activities and personal effects.**

**113.16(1) *Daily routine.*** The daily routine shall promote good health and provide an opportunity for activity suitable for the ~~foster-child~~ child(ren) with time for rest and play.

**113.16(2) *Clothing.***

*a.* ~~All children~~ Any child(ren) should have their own clothing.

*b.* ~~Children~~ Any child(ren) shall have training and help in selection and proper care of clothing.

*c. to e.* No change.

*f.* There shall be adequate closet and drawer space for ~~children~~ the child(ren) to permit access to their clothing.

**113.16(3) *Educational opportunity.*** Every ~~foster~~ child shall be given the opportunity to complete high school or vocational training in accordance with the child's case permanency plan. The foster parent shall be an advocate for the ~~foster-child~~ child(ren) by working with the ~~foster-child's~~ child(ren)'s school.

**113.16(4) *Religion and culture.*** Each child shall be given an opportunity, in consultation with the child's parents, to participate in the child's culture and religion. ~~Children~~ The child(ren) shall not be required to participate in religious training or observances contrary to the wishes of the biological or adoptive family or the religious beliefs of the ~~child~~ child(ren).

**113.16(5) *Community participation.*** Every child shall be given the opportunity to develop healthy social relationships through participation in neighborhood, school and other community and group activities. The ~~child~~ child(ren) shall have the opportunity to invite friends to the foster home and to visit the home of friends.

**113.16(6) *Work assignments.*** Work assignments shall be in keeping with the ~~child's~~ child(ren)'s age and development.

*a.* Exploitation of the ~~child~~ child(ren) is prohibited. No ~~child~~ child(ren) shall be permitted to do any hazardous tasks or to engage in any work which is in violation of the child labor laws of the state.

*b.* ~~Each child~~ The child(ren) shall have the opportunity to learn to assume some responsibility for self and for household duties in accordance with the ~~child's~~ child(ren)'s age, health and ability. However, assigned tasks shall not deprive the ~~child~~ child(ren) of school, sleep, play or study periods.

This rule is intended to implement Iowa Code section 237.3.



HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—113.17(237) Medical examinations and health care of the ~~child~~ child(ren).**

**113.17(1) *Medical and dental care.*** Foster parents shall keep the ~~child's~~ child(ren)'s department case manager informed of any medical and dental appointments and treatments prescribed for the ~~child~~ child(ren).

*a.* Foster parents shall contact the ~~child's~~ child(ren)'s parents to engage them in the process of accessing routine medical and dental care for their ~~child~~ child(ren) unless parental rights have been terminated.

*b.* In case of an emergency or urgent situation requiring medical care and treatment of an acute illness, disease or condition of a ~~child~~ the child(ren), when a delay or inability to access parental or department consent for medical care or treatment would endanger the health or physical well-being of the ~~child~~ child(ren), the foster parents can provide consent for medical care and treatment.

**113.17(2) No change.**

This rule is intended to implement Iowa Code section 237.3.

**441—113.18(237) Training and discipline of foster ~~children~~ child(ren).**

**113.18(1) *Foster parents' methods of training and discipline.*** The home study evaluation of each foster parent applicant shall include a discussion and a written report of the foster parents' methods of training and discipline. Discipline shall be designed to help the ~~child~~ child(ren) develop self-control, self-esteem, and respect for the rights of others.

**113.18(2) *Restrictions on training and discipline.*** ~~Child training~~ Training and discipline of the child(ren) shall be handled with kindness and understanding.

*a.* ~~A child~~ The child(ren) shall not be locked in a room, closet, box, or other device.

*b.* No ~~child~~ child(ren) shall be deprived of food as punishment.

*c.* No ~~child~~ child(ren) shall be subjected to verbal abuse, threats or derogatory remarks about the ~~child~~ child(ren) or the ~~child's~~ child(ren)'s family.

*d.* No change.

*e.* Restraints shall not be used as a form of discipline.

(1) Reasonable physical force may be used to restrain a ~~child~~ the child(ren) only in order to prevent injury to the ~~child~~ child(ren), injury to others, the destruction of property, or extremely disruptive behavior.

(2) Upon approval of the department, the foster parent may use restraints only in accordance with the written plan of a licensed mental health professional who is working with the ~~child~~ child(ren) and the foster parents.

**113.18(3) *Reports of mistreatment.*** Reports of mistreatment coming to the attention of the department licensing worker and caseworker for the ~~foster child~~ child(ren) shall be investigated promptly and referred to the proper authorities when necessary.

This rule is intended to implement Iowa Code sections 234.40 and 237.3.

**441—113.19(237) Emergency care and release of ~~children~~ child(ren).**

**113.19(1) *Supervision and arrangements for emergency care.***

*a.* Foster parents shall provide supervision of ~~foster children and children~~ the child(ren) in preadoptive placement as dictated by the individual child's specific needs.

*b.* In case of emergency requiring the foster parents' temporary absence from the home, arrangements shall be made with other licensed foster parents or with designated, responsible persons for the care of the ~~children~~ child(ren) during the period of absence. The ~~child's~~ child(ren)'s placement worker shall be notified of all emergency absences of the foster parents.

**113.19(2) *Release of ~~foster child~~ child(ren).*** The foster parents shall release the ~~foster child~~ child(ren) only to the agency, parent or guardian from whom the ~~child was~~ child(ren) were received for care, or the person specifically designated by the agency, parent or guardian.

This rule is intended to implement Iowa Code section 237.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—113.20(237) Changes in foster family home.** Foster parents shall notify the department and the recruitment and retention contractor within seven working days of:

1. Any change in the number of persons living in the home (except for ~~foster children~~ the child(ren) placed in the home);
2. No change.
3. Any circumstances in the home that could negatively affect the health, safety or welfare of a ~~child~~ the child(ren) in the family's care.

This rule is intended to implement Iowa Code section 237.3.

**ARC 6837C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rule making related to group living foster care facilities and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 114, "Licensing and Regulation of All Group Living Foster Care Facilities for Children," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 217.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 237.3.

#### *Purpose and Summary*

Chapter 14 was reviewed as part of the Department's five-year review of rules. This chapter outlines the basic standards for all group living foster care facilities and contains the basic standards applicable to community residential facilities for children. These proposed amendments update definitions and provide additional clarity. Qualifications are proposed to be amended to provide further information on related human services fields and experience in social work or experience in the delivery of human services in a public or private agency as additional ways to qualify as a caseworker. Rules are proposed to be updated to provide information on the record check process.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule 441—114.1(237) as follows:

**441—114.1(237) Applicability.** This chapter outlines the basic standards for all group living foster care facilities and contains the basic standards applicable to community residential facilities for children. Additional standards applicable to specific levels of group living are discussed in 441—Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” and 441—Chapter 116, “Licensing and Regulation of Residential Facilities for Children with an Intellectual Disability or Brain Injury.”

~~This rule is intended to implement Iowa Code chapter 237.~~

ITEM 2. Amend rule **441—114.2(237)**, definitions of “Private juvenile detention home” and “Private juvenile shelter care home,” as follows:

“*Private juvenile detention home*” means a juvenile detention home as defined in Iowa Code section 232.2, which does not meet the requirements of being “county or multicounty” as defined in 441—~~subrule~~ 105.1(2) rule 441—105.1(232).

“*Private juvenile shelter care home*” means a juvenile shelter care home as defined in Iowa Code section 232.2, which does not meet the requirements of being “county or multicounty” as defined in 441—~~subrule~~ 105.1(2) rule 441—105.1(232).

ITEM 3. Rescind the implementation sentence in rule **441—114.3(237)**.

ITEM 4. Rescind the implementation sentence in rule **441—114.4(237)**.

ITEM 5. Adopt the following **new** paragraph **114.5(6)“g”**:

g. Providing personal care items to children in care. Personal care items must be provided to the children in care and must reflect the individual, cultural, racial and ethnic needs of the youth living in the facility’s programs.

ITEM 6. Rescind the implementation sentence in rule **441—114.5(237)**.

ITEM 7. Rescind the implementation sentence in rule **441—114.6(237)**.

ITEM 8. Amend subparagraph **114.7(3)“b”(8)** as follows:

(8) If the applicant, probationary employee or temporary employee has completed and submitted Form 470-2310, ~~Record Check Evaluation~~, to the agency, a copy shall be kept in the staff record.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 9. Amend paragraph **114.8(1)“a”** as follows:

*a.* A caseworker shall have ~~a bachelor of arts or bachelor of science~~ graduated from a four-year college or university with a bachelor’s degree in a human services field related to social work, psychology or a related behavioral science, plus two years of supervised or in education and the equivalent of one year of full-time experience; or a bachelor’s degree in social work with one year of supervised experience; in social work or in the delivery of human services in a public or private agency, or six years of supervised child welfare experience in residential care or a combination of advanced education in the behavioral sciences and experience equal to six years.

ITEM 10. Amend paragraph **114.8(1)“e”** as follows:

*e.* A person who has a record of a criminal conviction or founded child or dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child or dependent adult abuse has been made by the department which concludes that the crime or founded child or dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child or dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, ~~“Record Check Evaluation.”~~ In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

ITEM 11. Rescind the implementation sentence in rule **441—114.8(237)**.

ITEM 12. Amend subparagraphs **114.9(4)“b”(2)** and **(3)** as follows:

(2) Written policies regarding children’s rights as in ~~114.13(2)~~ rule **441—114.13(237)**.

(3) Written policies regarding religion, work or vocational experiences, family involvement, ~~grievance procedures~~ and discipline as in ~~441—114.13(237)~~ rules 441—114.15(237) to 114.18(237) 441—114.17(237) and 114.20(237) rule **441—114.20(237)**.

ITEM 13. Rescind the implementation sentence in rule **441—114.9(237)**.

ITEM 14. Rescind the implementation sentence in rule **441—114.10(237)**.

ITEM 15. Rescind the implementation sentence in rule **441—114.11(237)**.

ITEM 16. Rescind the implementation sentence in rule **441—114.12(237)**.

ITEM 17. Rescind the implementation sentence in rule **441—114.13(237)**.

ITEM 18. Rescind the implementation sentence in rule **441—114.14(237)**.

ITEM 19. Rescind the implementation sentence in rule **441—114.15(237)**.

ITEM 20. Rescind the implementation sentence in rule **441—114.16(237)**.

ITEM 21. Rescind the implementation sentence in rule **441—114.17(237)**.

ITEM 22. Rescind the implementation sentence in rule **441—114.18(237)**.

ITEM 23. Amend rule **441—114.19(237)** as follows:

**441—114.19(237) Child abuse.** Written policies shall prohibit mistreatment, neglect, or abuse of children and specify reporting and enforcement procedures for the facility. Alleged violations shall be reported immediately to the director of the facility and ~~appropriate the~~ department of human services personnel centralized abuse hotline. Any employee found to be in violation of Iowa Code chapter 232, ~~division subchapter III, part 2,~~ as substantiated by the department of human services’ investigation shall be subject to the agency’s policies concerning dismissal.

~~This rule is intended to implement Iowa Code section 237.2.~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- ITEM 24. Rescind the implementation sentence in rule **441—114.20(237)**.
- ITEM 25. Rescind the implementation sentence in rule **441—114.21(237)**.
- ITEM 26. Rescind the implementation sentence in rule **441—114.22(237)**.
- ITEM 27. Rescind the implementation sentence in rule **441—114.23(237)**.
- ITEM 28. Amend paragraph **114.24(2)“a”** as follows:
- a. Scope.* The evaluation shall consider the nature and seriousness of the founded child or dependent adult abuse or criminal conviction report in relation to:
- (1) and (2) No change.
- (3) The circumstances under which the abuse or crime was committed,
- ~~(3)~~ (4) The degree of rehabilitation,
- (4) ~~(5)~~ The likelihood that the person will commit the abuse or crime again, and
- ~~(5)~~ (6) The number of abuses or crimes committed by the person.
- ITEM 29. Rescind the implementation sentence in rule **441—114.24(237)**.
- ITEM 30. Rescind the implementation sentence in rule **441—114.25(237)**.
- ITEM 31. Adopt the following **new** implementation sentence in **441—Chapter 114**:  
These rules are intended to implement Iowa Code section 237.3.

**ARC 6838C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to residential care facilities for children  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 237.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 237.3.

*Purpose and Summary*

Chapter 115 was reviewed as part of the Department’s five-year review of rules. This chapter outlines the licensing and regulation standards for comprehensive regulations of residential care facilities for children. Proposed changes include updating language regarding additional contact time requirements with caseworkers per provider requests. Language regarding the use of chemical restraints is proposed to be removed. Expanded documentation requirements regarding the use of the control room are being proposed to align with other chapters.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg  
 Department of Human Services  
 Hoover State Office Building, Fifth Floor  
 1305 East Walnut Street  
 Des Moines, Iowa 50319-0114  
 Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subparagraph **115.4(2)“a”(3)** as follows:

(3) ~~At least one additional hour per week per~~ Additional contact as needed with each caseworker in other related duties including case intake discussions, staffings of cases, evaluations of the caseworker, teaching, and administrative duties.

ITEM 2. Amend rule **441—115.5(237)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~237C.3~~ 237.3.

ITEM 3. Amend subrule 115.6(2) as follows:

**115.6(2) Secure facilities.** Secure facilities may use physical restraints, a control room, locked cottages, and mechanical restraints, ~~and chemical restraints.~~

ITEM 4. Amend paragraph **115.7(2)“c”** as follows:

c. Require documentation in writing of the types of behaviors leading to control room placement and the conditions that will allow the child to return to the living unit. The child shall be informed of these conditions. Documentation of control room use shall include, but not be limited to, the following:

- (1) Each use of the control room.
- (2) The time the intervention began and ended.
- (3) The reason that required the resident to be put in the control room.
- (4) The name(s) of staff involved in the intervention.

**ARC 6839C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to five-year review of rules  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 176, “Dependent Adult Abuse,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 217.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 235B.

*Purpose and Summary*

Chapter 176 was reviewed as part of the Department’s five-year rules review. Definitions are proposed to be updated to align with the Iowa Code and to provide consistency. The word “dependent” is proposed to be added to “adult abuse” to ensure dependent adult abuse is correctly identified. The proposed amendments clarify the relationships of all parties involved in the assessment process.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*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 rule making may be demanded by 25 interested persons, a governmental

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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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule **441—176.1(235B)**, definitions of “Adult abuse,” “Expungement,” “Informed consent,” “Multidisciplinary team,” “Preponderance of evidence” and “Registry,” as follows:

“~~Adult~~ Dependent adult abuse” means ~~either~~:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
  - Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
  - The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
  - Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
  - The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health.
- ~~2.~~ 2. Sexual exploitation of a dependent adult by a caretaker. “Sexual exploitation” means any consensual or nonconsensual sexual contact with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in Iowa Code section 702.17. “Sexual exploitation” includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. “Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
- ~~3.~~ 3. Personal degradation of a dependent adult, which means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.
- ~~4.~~ 4. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

“*Expungement*” means the process of destroying or erasing dependent adult abuse information in compliance with Iowa Code section 235B.9.

“*Informed consent*,” ~~(as used in Iowa Code section 235B.2(5) “e”)~~ as used in the description of exploitation in Iowa Code section 235B.2(5), means a dependent adult's agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives.

“*Multidisciplinary team*” ~~shall mean~~ means a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement



## HUMAN SERVICES DEPARTMENT[441](cont'd)

and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

“*Preponderance of evidence*” ~~shall mean~~ means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

“*Registry*” means the central registry for dependent adult abuse information established in Iowa Code ~~Supplement~~ section 235B.5.

ITEM 2. Adopt the following new definitions of “Assessment information” and “Confidential information” in rule **441—176.1(235B)**:

“*Assessment information*” means material and data maintained by the department in a manual or automated data storage system concerning the report, assessment or evaluation, or disposition of dependent adult abuse.

“*Confidential information*” means any information restricted by Iowa Code chapter 22, 217, 235B, 229, or 125; 45 CFR 160, 162 and 164 as of January 1, 2023; or any other provision in state or federal law that prohibits disclosure of information.

ITEM 3. Rescind the definition of “Confidentiality” in rule **441—176.1(235B)**.

ITEM 4. Amend rule 441—176.2(235B) as follows:

**441—176.2(235B) Denial of critical care.** The failure, by acts or omissions, on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical or mental care, and other care necessary for the dependent adult’s health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

ITEM 5. Amend rule 441—176.3(235B) as follows:

**441—176.3(235B) Appropriate evaluation.** ~~Immediately upon~~ Upon receipt of a dependent adult abuse report, ~~the worker~~ the department shall conduct an intake sufficient to determine whether the allegation meets criteria and constitutes a report of dependent adult abuse as defined in Iowa Code section 235B.2.

**176.3(1)** Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

- a. ~~The~~ There is a reasonable belief the person is a dependent adult.
- b. Dependent adult abuse exists as defined in Iowa Code section 235B.2 is suspected.
- c. The alleged person responsible is:

(1) ~~A caretaker exists in reports of physical injury to or, assault, unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; personal degradation; and deprivation by another person of food, shelter, clothing, supervision, physical and or mental health care and other care necessary to maintain life or health.~~

(2) The dependent adult in reports of deprivation of food, shelter, clothing, supervision, physical or mental health care and other care necessary to maintain life or health due to the adult’s own acts or omissions pursuant to Iowa Code section 235B.2(5)“a”(2).

**176.3(2)** Nondependent adult abuse situations. The following are not dependent adult abuse situations:

- a. A report of domestic abuse under Iowa Code chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse.
- b. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- c. Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*d.* Withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 222, 229, or 633.

*e.* All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections, when the allegation pertains to correctional staff as caretakers.

**176.3(3)** Reports of dependent adult abuse which are the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments assessment information only and shall not be included on the central registry. The central registry shall be notified as to the disposition of the assessment.

**176.3(4)** Confirmed, not registered. Reports of physical abuse, denial of critical care by a caretaker, or personal degradation that would otherwise be founded reports shall be considered confirmed, not registered reports if the abuse is determined to be minor, isolated, and unlikely to reoccur. These reports shall be assessments and shall not be included on the central abuse registry. The assessment shall be maintained in the local office as directed in subrule 176.13(4). Access to confirmed, not registered reports will be authorized pursuant to Iowa Code section 235B.6(3).

ITEM 6. Amend rule 441—176.4(235B) as follows:

**441—176.4(235B) Reporters.** ~~The~~ As a function of the central registry and county office, centralized intake shall accept take reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

**176.4(1)** Mandatory reporters shall:

*a.* ~~Report~~ report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.

*b.* ~~Make a written report within 48 hours after an oral report.~~

**176.4(2)** The reporter may use ~~a form prescribed by the department or may use Form 470-2441 or~~ a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

ITEM 7. Amend rule 441—176.5(235B) as follows:

**441—176.5(235B) Reporting procedure.**

**176.5(1)** Each report made by someone other than a mandatory reporter may be oral or written.

**176.5(2)** The report shall be made by telephone or otherwise to the department ~~of human services.~~ When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person ~~shall~~ will be asked to also make an oral report to an appropriate law enforcement agency.

**176.5(3)** The department ~~of human services~~ shall: provide electronic access to all reports alleging dependent adult abuse to the appropriate county attorney.

*a.* ~~Immediately, upon receipt of a report, make an oral report to the registry;~~

*b.* ~~Forward a copy of the report to the registry; and~~

*c.* ~~Promptly notify the appropriate county attorney of the receipt of any report.~~

**176.5(4)** The report ~~shall~~ may contain the following information, or as much thereof as the person making the report is able to furnish:

*a.* The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.

*b.* The dependent adult's present whereabouts if not the same as the address given.

*c.* The reason the adult is believed to be dependent. Dependency is the first criterion to be considered before beginning an evaluation.

*d.* The dependent adult's age.

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*e.* The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse. The existence of alleged dependent adult abuse is the second criterion to be considered before beginning an evaluation.

*f.* Information concerning ~~the~~ suspected dependent adult abuse of other dependent adults in the same residence.

*g.* Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

*h.* The name and address of the person making the report.

**176.5(5)** A report ~~shall be accepted~~ will be received whether or not it contains all of the information requested in subrule 176.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of ~~human services~~, that agency shall promptly refer the report to the department.

ITEM 8. Amend rule 441—176.6(235B) as follows:

**441—176.6(235B) Duties of the department upon receipt of report.**

**176.6(1)** When a report is received; and meets the criteria pursuant to Iowa Code section 235B.2(5)“a,” the department shall promptly commence an appropriate evaluation or assessment, except that the department of inspections and appeals is responsible for the evaluation and disposition of a case of dependent adult abuse in a health care facility pursuant to Iowa Code chapter 235E, including hospitals as defined in Iowa Code section 135B.1 and facilities as defined in Iowa Code section 135C.1. The department shall forward all reports and other information concerning dependent adult abuse in a health care facility to the department of inspections and appeals on the first working day following the submitting of the report. The department of inspections and appeals shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of dependent adult abuse in a health care facility. ~~The primary purpose of the evaluation or assessment by the department shall be the protection of the dependent adult named in the report.~~

**176.6(2)** The evaluation or assessment shall include all of the following:

*a.* Identification of the nature, extent, and cause of the dependent adult abuse, if any, to the dependent adult named in the report.

*b.* The identification of the person or persons responsible for the dependent adult abuse.

*c.* A determination of whether other dependent adults in the same residence have been subjected to dependent adult abuse.

*d.* A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult’s relationship with caretakers and other adults in the same residence.

*e.* A critical explanation of all other pertinent matters.

**176.6(3)** The evaluation or assessment, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation or assessment, to enter the residence of, and to examine the dependent adult.

Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to gain access to the financial records of the dependent adult.

~~**176.6(4)** County attorneys, law enforcement agencies, multidisciplinary teams as defined in Iowa Code section 235B.1, subsection 1, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.~~

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~~176.6(5)~~ **176.6(4)** Completion of evaluation or assessment report. Upon completion of its evaluation or assessment, the department shall complete a report that describes its findings and includes all actions taken or contemplated.

a. The department shall complete its report within 20 ~~working~~ business days of the receipt of the abuse allegations, unless the worker's supervisor grants an extension of time for good cause ~~shown~~. The worker's supervisor may grant an extension for a maximum of 30 ~~working~~ business days. No more than three extensions shall be granted.

b. Upon completion of an assessment or evaluation, the department shall enter its report into the dependent adult reporting and evaluation system (DARES).

~~c. Upon completion of an assessment when the alleged abuse is the result of the acts or omissions of the dependent adult, the department shall place the report in the case file of the dependent adult and enter the information into DARES.~~

~~176.6(6)~~ **176.6(5)** Report to county attorney. The department shall ~~transmit a copy of the report of~~ provide electronic access to the complete evaluation or assessment to the appropriate county attorney. ~~The county attorney shall notify the local office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.~~

~~176.6(7)~~ **176.6(6)** Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers.

~~176.6(8)~~ **176.6(8)** Court action. ~~When, upon completion of the evaluation or assessment or upon referral from the state department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code chapter 125, 222, 229, or 633. The department may pursue other remedies provided by law pursuant to the applicable procedures under Iowa Code sections 235B.17, 235B.18, 235B.19, and 235B.20 or any other legal remedy which provides protection to a dependent adult. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action, and shall appear and represent the department at all district court proceedings.~~

~~176.6(9)~~ The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

~~176.6(10)~~ In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to Iowa Code section 235B.3, subsection 7, paragraph "c," the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

~~176.6(11)~~ **176.6(7)** Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult as authorized pursuant to Iowa Code section 235B.6(2) "c" and for the purpose of assuring safety and mitigating risk to dependent adults, the department shall notify the licensing or accrediting authority for the program, the governing body of the program, and the administrator in charge of the program of any of the following:

a. A violation of program policy noted in the evaluation.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

b. An instance in which program policy or lack of program policy may have contributed to the dependent adult abuse.

c. An instance in which general practice in the program appears to differ from the program's policy.

~~The licensing or accrediting authority, the governing body, and the administrator in charge of the program shall take any lawful action which may be necessary or advisable to protect dependent adults receiving care in the program.~~

~~176.6(12)~~ **176.6(8)** Assessments Services by other agencies. The department may approve agencies considered capable and appropriate to complete assessments of provide services during the course of an assessment or evaluation to dependent adults who are suspected of being abused or neglected.

a. The department may make a referral to an approved agency to complete an assessment of provide services to a dependent adult who is suspected of being abused or neglected, in conjunction with a department abuse evaluation or assessment on the dependent adult.

b. The department may use information obtained ~~from the assessment completed~~ during services provided by the approved agency in the abuse evaluation or assessment. The department has complete authority in determining the conclusions of the abuse evaluation or assessment.

~~176.6(13)~~ **176.6(13)** Referrals to other agencies. During an assessment or evaluation of suspected abuse of a dependent adult, the department shall:

a. ~~Make a referral to the division of labor services of the department of workforce development if an issue is discovered that concerns wages, workplace safety, or labor and employment matters under the jurisdiction of that agency.~~

b. ~~Make a referral to the civil rights commission if an issue is discovered that involves discrimination under the jurisdiction of that agency.~~

~~176.6(14)~~ **176.6(9)** Assessment of dependency and risk. ~~After the first visit to a dependent adult who is alleged to be abused~~ During a dependent adult abuse assessment or evaluation, the department shall complete an assessment of the adult using a form prescribed by the department pursuant to Iowa Code section 235B.16A(2). The department shall assess:

a. The adult's dependency,

b. The risk to the adult's health or safety, and

c. The areas in which the adult is either dependent or independent.

~~176.6(15)~~ **176.6(10)** Follow-up for at-risk adults. When it has not been possible or necessary to obtain a court order for services to an at-risk adult, the department shall attempt to empower the at-risk adult to agree to accept services and to participate in preparing a safety plan. If the adult refuses to sign a safety plan for an at-risk adult and to accept recommended services, the department shall provide periodic visits at the conclusion of the assessment or evaluation. Periodic visits will be conducted with the at-risk adult. The department has no authority to share information or obtain information with any other individuals during the course of periodic visits. Periodic visits should not be used as a means to continue gathering assessment or evaluation information.

a. *Purpose.* The purpose of the visits shall be to:

(1) Assess the adult for increased risk or impairment,

(2) Monitor the adult's situation to determine the feasibility of intervening with protective services, and

(3) Empower the adult to accept recommended services and to engage in safety planning.

b. *Exemption.* If it has been determined there is a physical threat to the safety of the department employee who is attempting to visit an at-risk adult, the department shall not attempt a periodic visit unless the physical threat to safety has been removed.

c. *Criteria to continue visits.* Periodic visits shall continue if:

(1) The adult's health or safety has deteriorated somewhat but not to the point that a court order is necessary; or

(2) The adult's health or safety has remained the same and there is a possibility the adult may in the future agree to services and to participating in preparing a safety plan.

d. *Criteria to end visits.* Periodic visits shall be terminated when:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) The adult agrees to services and services are arranged; or
- (2) The adult's health or safety has deteriorated to the point that the department has requested court action pursuant to subrule 176.6(8); or
- (3) The adult's health or safety has not changed six months after the initial report of alleged abuse;<sup>2</sup> there appears no possibility the adult will ever agree to services;<sup>2</sup> and the adult ~~is competent~~ has the capacity to make decisions.

ITEM 9. Amend rule 441—176.7(235B) as follows:

**441—176.7(235B) Appropriate evaluation or assessment.**

~~176.7(1) After receipt of the report alleging dependent adult abuse, the field worker shall make an evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.~~

~~176.7(2) When the information gathered in the evaluation or assessment tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation or assessment by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist.~~

~~a.—If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 176.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult.~~

~~b.—When physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within 24 hours after receipt of the report.~~

~~176.7(3) In the event the information gathered in the evaluation or assessment fails to corroborate the allegation of adult abuse, the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the report required by subrule 176.6(5).~~

176.7(1) After receipt of a report alleging dependent adult abuse which meets criteria as outlined in subrule 176.3(1), a dependent adult abuse evaluation or assessment will be initiated and will be assigned to an adult protection worker. The adult protection worker will make an effort to observe and examine the dependent adult as authorized by subrule 176.6(3) and evaluate the dependent adult's safety.

a. For cases where there is information that the alleged perpetrator has access to the adult subject, reasonable efforts shall be made to observe the adult subject and evaluate the adult subject's safety within 24 hours of commencing the assessment of the report alleging dependent adult abuse.

b. For cases where there is information that the alleged perpetrator clearly has no access to the adult subject, or for cases where services are in place to mitigate any safety concerns, reasonable efforts shall be made to observe the adult subject and evaluate the adult subject's safety within 72 hours of commencing the assessment of the report alleging dependent adult abuse.

c. When reasonable efforts have been made to observe the adult subject within the specified time frames and the worker has established that there is no need to observe and no risk to the adult subject, the observation of the adult subject may be delayed or waived with supervisory approval.

176.7(2) After receipt of the report alleging dependent adult abuse, the adult protection worker shall conduct an evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources or other collateral contacts would tend to corroborate the alleged abuse.

176.7(3) In the event the information gathered in the evaluation or assessment fails to corroborate the allegation of dependent adult abuse as defined in Iowa Code section 235B.2(5) "a," the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the report.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 10. Rescind rule **441—176.8(235B)**.

ITEM 11. Renumber rules **441—176.9(235B)** to **441—176.13(235B)** as **441—176.8(235B)** to **441—176.12(235B)**.

ITEM 12. Amend renumbered rule 441—176.8(235B) as follows:

**441—176.8(235B) Registry records.** Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the ~~caretaker~~ alleged person responsible (if applicable).

ITEM 13. Amend renumbered rule 441—176.9(235B) as follows:

**441—176.9(235B) Adult Dependent adult abuse information disseminated.**

**176.9(1) Requests for information.** Written requests for dependent adult abuse information by the subject of a report as defined in subrule 176.10(3), paragraph “a,” may be submitted to the county office of the department on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~ or 470-2444.

Oral requests for dependent adult abuse information may be made to the county office or the central registry when the person making the request believes that the information is needed immediately and the person is authorized to access the information, pursuant to the requirements of Iowa Code section ~~235B.7, subsection 2~~ 235B.7(2). If a request is made orally by telephone, a written request shall be filed within 72 hours of the oral request on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~. When an oral request to the county office to obtain dependent adult abuse information is granted by the central registry, the county shall document the approval to the central registry on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~.

All other requests for information shall be made to the central registry by mail or fax pursuant to the requirements of Iowa Code section 235B.7.

**176.9(2) Verification of identity.** The county office shall verify the identity of the person making the request on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~. Upon verification of the identity of the person making the request, the county office shall transmit the request to the central registry. The central registry shall verify the identity of persons making requests for information directly to the central registry by telephone, mail, or fax, or in person, on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~.

**176.9(3) Approval of requests.** The department shall grant access to dependent adult abuse information as authorized by Iowa Code section 235B.6. Upon approval of any request for dependent adult abuse information authorized by this rule, the department may withhold the name of the person who made the report of dependent adult abuse ~~when the department finds that the disclosure of the person’s identity would be detrimental to the person’s interest~~ pursuant to Iowa Code section 22.7(18).

**176.9(4) Requests concerning applicants for employment and employees of health care programs.** A health care program making a request for dependent adult abuse information for the purpose of determining employability, as authorized by Iowa Code section ~~235B.6, subsection 2, paragraph “e,” subparagraphs (6) and (7), 235B.6(2) “e” (6) and (7) and section 135C.33, subsection 6~~ 135C.33(6), shall request the information directly from the central registry or obtain the information from the ~~Internet electronic information system maintained by the health facilities division of the department of inspections and appeals~~ single contact repository (SING).

Requests made directly to the central registry shall be made on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~.

Health care programs requesting dependent adult abuse background checks on employee applicants and employees by use of the ~~Internet electronic information system SING~~ shall complete the department-prescribed form entitled ~~Access to Confidential Abuse Information and Non-Redissemination Agreement. The form Form 470-3767. Form 470-3767~~ shall be signed by the administrator of the health care program and be sent to the central registry before receipt of

## HUMAN SERVICES DEPARTMENT[441](cont'd)

the information from the department. The administrator shall agree not to disseminate dependent adult abuse information obtained through the ~~Internet electronic information system SING~~, except as authorized in Iowa Code sections 235B.6 and 235B.8.

~~176.9(5) Dissemination of undetermined reports. Rescinded IAB 8/6/03, effective 7/10/03.~~

~~176.9(6) Access to unfounded dependent adult abuse information. Access to unfounded dependent adult abuse information is authorized only to:~~

~~a. Persons identified as subjects of a report, including the dependent adult named in a report as a victim, a guardian of a dependent adult named in a report as a victim, a person named in a report as having abused a dependent adult, or an attorney representing any of the above;~~

~~b. An employee or agency of the department of human services responsible for the evaluation or assessment of a dependent adult abuse report;~~

~~c. Registry or department personnel, when necessary to the performance of their official duties, or a person or agency under contract with the department to carry out official duties and functions of the registry;~~

~~d. The mandatory reporter who reported dependent adult abuse in an individual case;~~

~~e. The long-term care resident advocate, if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility; and~~

~~f. A multidisciplinary team, if the department approves the composition of the team and determines that access to the team is necessary to assist in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.~~

~~176.9(7) 176.9(5) Requests concerning employees of department facilities. When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated to the personnel office of the department. The personnel office shall disseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.~~

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

~~176.9(8) 176.9(6) Dependent adult abuse information disseminated and redisseminated. Notwithstanding subrule 176.10(1) requests pursuant to Iowa Code section 235B.7, written requests and oral requests are not required for dependent adult abuse information that is disseminated to an employee of the department of human services, a district court, or the attorney representing the department as authorized by Iowa Code section 235B.6, or the office of the attorney general.~~

~~176.9(9) 176.9(7) Required notification. The department shall will make a reasonable attempt to notify orally the subject of a report of the results of the evaluation or assessment dependent adult abuse subjects as described in Iowa Code section 235B.6(2) "a" of the outcome of the dependent adult abuse assessment or evaluation. The department shall subsequently transmit send a written notice to the subject report subjects which will include information regarding the results, the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code section 235B.10.~~

~~176.9(10) 176.9(8) Mandatory reporter notification. The department shall attempt to notify orally the mandatory reporter who made the report in a dependent adult abuse case of the results of the evaluation or assessment and of the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12. The department shall subsequently transmit a written adult protective notification on a form prescribed by the department to each mandatory reporter who made the report. The form shall include information regarding the results of the evaluation or assessment and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in Iowa Code section 235B.8.~~



## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~176.9(11)~~ **176.9(9)** *Subjects informed of abuse history.* The department may inform a subject of a dependent adult abuse report of a person's abuse history if the department determines at any time that disclosure is necessary for the protection of the dependent adult. A subject may be informed that a person is listed on the child or dependent adult abuse registry as having a founded abuse report or is listed on the sex offender registry.

ITEM 14. Amend renumbered rule 441—176.11(235B) as follows:

**441—176.11(235B) Examination of information.** ~~Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 p.m. or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.~~

The Pursuant to Iowa Code section 235B.10, any person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification. Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 noon or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

ITEM 15. Amend renumbered rule 441—176.12(235B) as follows:

**441—176.12(235B) Dependent adult abuse information registry.** The department shall create a central abuse registry for dependent adult abuse information. The registry shall collect, maintain, and disseminate dependent adult abuse information as follows:

**176.12(1) Founded reports.** A report of dependent adult abuse determined to be founded shall be retained and sealed by the registry in accordance with Iowa Code section 235B.9.

**176.12(2) Unfounded reports.** A report of dependent adult abuse determined to be unfounded shall be expunged five years from the date it is determined to be unfounded, in accordance with Iowa Code section ~~235B.9, subsection 2, as amended by 2009 Iowa Acts, Senate File 484~~ 235B.9(2).

**176.12(3) Rejected intakes.** Reports that are found not to meet the criteria to be accepted for evaluation or assessment of abuse shall be kept in the ~~local office~~ dependent adult reporting and evaluation system (DARES) for three years from the date the report of abuse was determined to be rejected.

**176.12(4) Assessments.** Reports classified as assessments shall not be included in the central registry but shall be maintained in the ~~local office~~ DARES. The central registry shall be notified of the disposition of the assessment report.

*a. Self-denial of critical care.* Reports involving abuse as a result of the acts or omissions of the dependent adult will be assessments. These reports shall be retained in the ~~dependent adult's case file in the local office~~ DARES for five years and then destroyed.

*b. Confirmed, not registered.* Reports of dependent adult abuse where physical abuse or, assault, unreasonable confinement, unreasonable punishment, denial of critical care, or personal degradation committed by a caretaker is confirmed but is determined to be minor, isolated, and unlikely to reoccur shall be assessments. These reports shall be maintained in the ~~local office~~ DARES for five years and then destroyed unless a subsequent report of dependent adult abuse on the same caretaker is founded. If a subsequent report on the same caretaker is founded within the five-year period, the confirmed, not registered report shall be maintained in the ~~local office~~ DARES for ten years from the date of the subsequent report and then sealed.

ITEM 16. Renumber rule ~~441—176.15(235B)~~ as **441—176.13(235B)**.

ITEM 17. Amend renumbered rule 441—176.13(235B) as follows:

**441—176.13(235B) Multidisciplinary teams.**

**176.13(1) Purpose of multidisciplinary teams.** The service area shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**176.13(2) Execution of team agreement.** When the team is established, the service area manager or designee and all team members shall execute an agreement on a form prescribed by the department. The multidisciplinary team agreement shall specify:

- a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of dependent adult abuse cases.
- b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting dependent adult abuse information specified in rule ~~441—176.10(235B)~~ 441—176.9(235B).
- c. That no team members shall disseminate dependent adult abuse information obtained solely through the multidisciplinary team. This shall not preclude dissemination of information as authorized by Iowa Code section 235B.6 when an individual team member has received information as a result of another authorized access provision of the Iowa Code.
- d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.
- e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code sections 235B.6 and 235B.8 and of ~~441—Chapter 176~~.
- f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.
- g. That consultation team members shall serve without compensation.
- h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.
- i. The date on which the agreement will expire.

**176.13(3) Filing of agreement.** Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

ITEM 18. Rescind rule ~~441—176.16(235B)~~.

ITEM 19. Renumber rule ~~441—176.17(235B)~~ as ~~441—176.14(235B)~~.

ITEM 20. Amend renumbered rule ~~441—176.14(235B)~~ as follows:

**441—176.14(235B) Request for correction or expungement.** The department of human services is responsible for correction or expungement of reports prepared by department staff. The department of inspections and appeals is responsible for correction or expungement of reports prepared by that department's staff and that determination shall be binding on the registry.

~~176.14(1) Within six months of the date of the notice of evaluation results, a person may file with the registry a written statement to the effect that the dependent adult abuse information referring to the person is partially or entirely erroneous. The person may also request a correction of that information or of the findings of the report. The~~ When a request for correction or expungement pursuant to Iowa Code section 235B.10 is received, the central registry will record all requests and immediately promptly forward the requests to the division of health facilities, department of inspections and appeals, when the reports were prepared by the department of inspections and appeals. The registry will notify the person requesting a correction that the report has been sent to the department of inspections and appeals.

**176.14(2)** Unless the designated department corrects the information or findings as requested, the designated department shall provide the person with an opportunity for a hearing as provided by ~~441—Chapter 7~~ to correct the information or the findings. The department may defer the hearing until the conclusion of a pending district court case relating to the information or findings.

**ARC 6835C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Proposing rule making related to violations by a health care facility  
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 56, “Fining and Citations,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2172.

*Purpose and Summary*

The proposed amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 2172. The legislation updated citations to administrative rules subject to exception from provisions related to the self-identification and correction of deficiencies by health care facilities.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.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 rule making 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.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Amend subrule 56.3(4) as follows:

**56.3(4)** *Self-identification and correction of a class II or class III violation prior to the on-site inspection.*

*a. Self-identification and correction.* If a facility self-identifies a deficient practice prior to the on-site visit inspection, there has been no complaint filed with the department related to that specific deficient practice, and the facility corrects such practice prior to an inspection, no citation shall be issued or fine assessed for class II or III violations except for those penalties arising pursuant to paragraphs "a" to "f": as identified in Iowa Code section 135C.36(5).

*a. Abuse.*

- (1) Rule 481—57.39(135C);
- (2) Rule 481—58.43(135C);
- (3) 481—subrules 62.23(23) to 62.23(25);
- (4) Rule 481—63.37(135C);
- (5) Rule 481—64.33(235B);
- (6) Rule 481—65.15(135C);
- (7) 481—subrules 65.25(3) to 65.25(5); and
- (8) 42 CFR Section 483.420(d).

*b. Personnel histories.*

- (1) Iowa Code section 135C.33;
- (2) 481—subrule 57.12(3);
- (3) 481—subrule 58.11(3);
- (4) 481—subrule 62.9(5);
- (5) 481—subrule 63.11(3);
- (6) Rule 481—64.34(135C); and
- (7) 481—subrule 65.9(5).

*c. Failure to implement physician's orders as required.*

- (1) 481—paragraph 57.12(2) "d";
- (2) 481—paragraph 58.19(2) "h";
- (3) 481—paragraph 62.15(1) "a";
- (4) 481—paragraph 63.11(2) "d"; and
- (5) 42 CFR Section 483.460(e)(4).

*d. Failure to notify the physician of any accident, injury, or adverse change in a resident's condition.*

- (1) 481—subrule 57.15(5);
- (2) 481—subrule 58.14(5); and
- (3) 481—paragraph 62.19(2) "e."

*e. Failure to administer all medications as ordered by the resident's physician.*

- (1) 481—paragraph 57.12(2) "d";
- (2) 481—paragraph 58.19(2) "a";
- (3) 481—paragraph 63.11(2) "d";
- (4) 481—subrule 64.4(9); and
- (5) 42 CFR Section 483.460(e)(4).

*f. Failure to meet the fire safety rules and regulations promulgated by the state fire marshal.*

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

- (1) ~~481 paragraph 58.28(1) "a";~~
- (2) ~~481 subrule 62.19(7);~~
- (3) ~~481 paragraph 63.23(1) "a"; and~~
- (4) ~~42 CFR Section 483.470(j).~~

~~g. b.~~ Process for documenting self-identification. If, during the inspection, an area of concern is identified to the facility that was self-identified and corrected by the facility prior to the inspection, no complaint has been filed, and the violation does not fall in the exemptions listed in ~~481 paragraphs 56.3(4) "a" to "f,"~~ Iowa Code section 135C.36(5), the facility shall complete a "Self-Identification and Correction Form" and submit it to the inspector(s) prior to the conclusion of the inspection, or to the department within two working days of the exit interview via ~~E-mail~~ email, facsimile, or overnight courier. The documentation shall include:

- (1) The nature of the problem;
- (2) The date the problem was identified;
- (3) Who identified the problem, i.e., family, resident, staff, physician, pharmacist;
- (4) Action steps taken to correct the problem;
- (5) ~~Date~~ The date the facility determined correction was completed; and
- (6) All documentation that substantiates the above information.

**ARC 6834C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rule making related to physician assistants  
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 57, "Residential Care Facilities," Chapter 65, "Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI)," and Chapter 71, "Subacute Mental Health Care Facilities," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 803.

*Purpose and Summary*

The proposed amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 803. This legislation required agencies that adopt rules pursuant to Iowa Code chapter 17A providing a power, privilege, right, or duty to a physician licensed under Chapter 148 to also provide the same power, privilege, right, or duty to a physician assistant licensed under Chapter 148C, to be consistent with the scope of practice of the physician assistant as specified therein.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend paragraph **57.6(2)“a”** as follows:

*a. Definition.* For purposes of this rule, the following term shall have the meaning indicated.

“*Qualified intellectual disability professional*” means a psychologist, physician, physician assistant, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has one year’s experience working with persons with an intellectual disability.

ITEM 2. Amend rule **481—65.1(135C)**, definition of “Qualified mental health professional (QMHP),” as follows:

“*Qualified mental health professional (QMHP)*” means a person who:

1. Holds at least a master’s degree in a mental health field, including but not limited to: psychology, counseling and guidance, nursing and social work; or is a doctor of medicine (M.D.) or a doctor of osteopathic medicine and surgery (D.O.) or a physician assistant; and
2. Holds a current Iowa license when required by the Iowa licensure law; and
3. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental problems and needs of individuals and in providing appropriate mental health services for those individuals. See rule 481—65.4(135C) for variance waiver procedures.

ITEM 3. Amend subparagraph **71.8(3)“a”(3)** as follows:

(3) Requires consultation with the attending physician, ~~or~~ designee of the physician, physician assistant, or advanced registered nurse practitioner who determines, in writing, on a form designated

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

by the department, that an injury is a “major injury” based upon the circumstances of the accident, the previous functional ability of the resident, and the resident’s prognosis;

**ARC 6840C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to swimming pools  
and spas and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 15, “Swimming Pools and Spas,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code chapter 135I.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 135I.

*Purpose and Summary*

The proposed amendments are intended to provide more clarity to existing provisions or reduce duplication of provisions.

The proposed amendments will do the following:

- Items 1 and 7, specifically in subparagraphs 15.4(1)“e”(2) and 15.51(1)“h”(2), remove the requirement for gas-fired swimming pool heaters to bear the seal of the American Gas Association (AGA). Beginning July 1, 2000, the markings on the valve bodies no longer have the AGA symbol cast into the product. In its place, the new industry certification of CSA US (Canadian Standards Association: United States) has been placed on the product. In recent years, AGA changed its name to IAS (International Approval Services). Since that time, CSA has purchased CGA (Canadian Gas Association), including AGA listing rights and the responsibility for monitoring manufacturing activities for certified products. There are requirements for listed and labeled equipment in other building codes, such as the plumbing code, mechanical code, and electrical code, so a separate requirement for listing and labeling of this equipment in the pool rules could result in conflicting requirements and multiple authorities having jurisdiction.

- Items 2, 4 and 9, specifically in subparagraphs 15.5(5)“d”(2), 15.5(21)“f”(1), and 15.52(5)“d”(2), remove the requirement that the data plate of gas-fired pool water heaters bear the AGA mark. This reference is outdated because the AGA mark is no longer in use and the CSA US standard is now used.

- Item 3, specifically in subparagraphs 15.5(13)“k”(1) and 15.5(13)“k”(2), changes terminology from lumens/ft<sup>2</sup> to footcandles (fc). This change will clarify the rule since footcandles is a more commonly used term than lumens/ft<sup>2</sup> to express the lighting level.

- Item 3, specifically in paragraph 15.5(13)“l,” removes a federal reference (CFR Title 16, Part 1207) which is not enforced by the United States Consumer Product Safety Commission (CPSC). Department staff have been in contact with CPSC to determine if the agency intends to enforce the standard, and it appears that it has not been enforced, and as such, the Department staff members feel that it should not be a basis for a deficiency under Iowa rule.

- Item 5, specifically by rescinding subrule 15.10(4), removes the requirement for training course providers to provide a list of names and addresses of individuals who have completed the training course. Historically, the program provided this information to pool and spa facilities to verify certification of staff. However, the training sponsors (typically the Pool & Hot Tub Alliance) are able to provide verification of certification by using the certificate number, by using a QR code, or by verifying

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

the individual's name. As such, it is duplicative for training providers to provide this information to the Department.

- Item 6, specifically by rescinding subrule 15.12(5), removes the requirement that training providers pay a fee of \$20 for each person who successfully completes the training course. Historically, the Department maintained a list of individuals who successfully passed the certification course. However, since that information is available from the Pool & Hot Tub Alliance and other training providers, this is duplicative work.

- Item 8, specifically in numbered paragraph 15.51(4)“f”(2)“3,” changes the requirement for facilities to maintain purchase records for at least five years to the requirement that records be maintained for the life of the cover or grate. There are different service lives (e.g., 3-year, 5-year, 7-year, 10-year, 20-year) assigned by the manufacturer, so the compliance paperwork must be kept for the life of the cover rather than simply 5 years.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Ken Sharp  
Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.281.5099  
Email: [kenneth.sharp@idph.iowa.gov](mailto:kenneth.sharp@idph.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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend paragraph **15.4(1)“e”** as follows:

*e. Swimming pool water heaters.*

- (1) Electric water heaters shall bear the seal of UL.
- (2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.
- (3) Fuel-burning water heaters shall be vented to the outside in accordance with the Iowa state plumbing code.
- (4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

ITEM 2. Amend subparagraph **15.5(5)“d”(2)** as follows:

(2) Gas-fired pool water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

ITEM 3. Amend paragraphs **15.5(13)“k”** and **“l”** as follows:

*k. Lighting.* Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

- (1) Underwater lighting of at least 8 lamp lumens/ft<sup>2</sup> or 0.5 watts/ft<sup>2</sup> of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 ~~lumens/ft<sup>2</sup>~~ footcandles (fc) or 0.6 watts/ft<sup>2</sup> of deck area.
- (2) If underwater lights are not provided, overhead lighting of at least 30 ~~lumens/ft<sup>2</sup>~~ footcandles (fc) or 2.0 watts/ft<sup>2</sup> of swimming pool water surface area shall be provided.

*l. Swimming pool slides.* ~~Swimming pool slides shall meet the requirements of the January 1, 2004, product standard of the United States Consumer Product Safety Commission (CFR Title 16, Part 1207).~~ Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

ITEM 4. Amend subparagraph **15.5(21)“f”(1)** as follows:

(1) Gas-fired storage-type hot water heaters shall comply with the requirements of ANSI/AGA Z21.10.1-2001, or with the requirements of ANSI/AGA Z21.10.3-2001. ~~The heater shall bear the mark of the AGA.~~

ITEM 5. Rescind subrule **15.10(4)**.

ITEM 6. Rescind subrule **15.12(5)**.

ITEM 7. Amend subparagraph **15.51(1)“h”(2)** as follows:

(2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.

ITEM 8. Amend subparagraph **15.51(4)“f”(2)** as follows:

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for ~~at least five years from the time~~ the life of the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of

PUBLIC HEALTH DEPARTMENT[641](cont'd)

the certification letter shall be kept at the facility for ~~at least five years from the certification date~~ the life of the cover/grate.

ITEM 9. Amend subparagraph **15.52(5)“d”(2)** as follows:

(2) Gas-fired spa water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

### TREASURER OF STATE

#### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for January 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 by a committee of the state of Iowa 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 January 4, 2023, 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 .95%
180-364 days .....	Minimum 1.00%
One year to 397 days .....	Minimum 1.15%
More than 397 days .....	Minimum .95%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**USURY**

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%
December 1, 2022 — December 31, 2022	6.00%
January 1, 2023 — January 31, 2023	6.00%
February 1, 2023 — February 28, 2023	5.50%

**ARC 6830C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to Iowa comprehensive plan**

The Homeland Security and Emergency Management Department hereby amends Chapter 9, “Iowa Comprehensive Plan,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 29C.8.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 29C.8.

*Purpose and Summary*

This rule making updates antiquated terminology within the rules related to the Iowa Comprehensive Emergency Plan and makes changes to reflect current internal processes.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6527C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Director on December 20, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on March 1, 2023.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule 605—9.1(29C) as follows:

**605—9.1(29C) Description.** Iowa Code section 29C.8 requires the director of the homeland security and emergency management department to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

1. ~~Part A:~~ Iowa Emergency Response Plan.
2. ~~Part B:~~ Iowa Hazard Mitigation Plan.
3. ~~Part C:~~ Iowa Disaster Recovery Plan.
4. ~~Part D:~~ Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records).

ITEM 2. Amend rule 605—9.2(29C) as follows:

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

1. A digital copy of ~~Part A~~ this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.
2. ~~Part A~~ This plan shall be distributed to state agencies and departments that have been assigned emergency functions and to all local emergency management agencies.
3. The Iowa Emergency Response Plan serves as the state disaster emergency response document.
4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list.~~
5. ~~4.~~ ~~Part A~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

ITEM 3. Amend rule 605—9.3(29C) as follows:

**605—9.3(29C) Part B: Iowa Hazard Mitigation Plan.** The ~~Part B:~~ Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8; and has been adopted on September 17, 2018, published, and maintained by the department. ~~Part B~~ This plan details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological, or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

1. A digital copy of ~~Part B~~ this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.
2. ~~Part B~~ This plan shall be distributed to state agencies and departments that have participated in the writing of the plan or are assigned hazard mitigation functions and to all local emergency management agencies.
3. The Iowa Hazard Mitigation Plan serves as the state hazard mitigation document and demonstrates the state's commitment to reduce risks from natural, technological, and human-caused hazards and serves as a guide for the commitment of resources to reducing the effects of natural, technological, and human-caused hazards.
4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list.~~ ~~Part B~~ Iowa Hazard Mitigation Plan shall be reviewed and amended as appropriate at a minimum of every five years.
5. ~~Part B~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

ITEM 4. Amend rule 605—9.4(29C) as follows:

**605—9.4(29C) Part C: Iowa Disaster Recovery Plan.** The ~~Part C:~~ Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2018, published, and maintained by the department. ~~Part C~~ This plan details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

1. A digital copy of Part C this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. ~~Part C~~ This plan shall be distributed to state agencies and departments that have been assigned recovery functions and to all local emergency management agencies.

3. The Iowa Disaster Recovery Plan serves as the state disaster recovery document.

4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part C shall be reviewed and amended as appropriate at a minimum of every five years.~~

5. 4. ~~Part C~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

[Filed 1/3/23, effective 3/1/23]

[Published 1/25/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/25/23.

**ARC 6832C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to 911 telephone systems**

The Homeland Security and Emergency Management Department hereby amends Chapter 10, “911 Telephone Systems,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 34A.22.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 34A.

*Purpose and Summary*

Primarily, this rule making updates terminology and modernizes technical language as part of the Department's five-year rules review.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6528C**.

A written comment was received in regard to the inclusion of a training and operational standard that is not under the purview of these administrative rules or Iowa Code section.

An additional written comment recommended additional updates to definitions. Based on this comment, two changes from the Notice have been made to update the definitions of “911 call” and “voice over internet protocol service” in rule 605—10.2(34A).

*Adoption of Rule Making*

This rule making was adopted by the Director on December 20, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 605—10.2(34A) as follows:

**605—10.2(34A) Definitions.** As used in this chapter, unless context otherwise requires:

*“Access line”* means an exchange access line that has the ability to access dial tone and reach a public safety answering point.

*“Automatic location identification ~~(ALI)~~”* or *“ALI”* means a system capability that enables an automatic display of information defining a geographical location of the telephone used to place the 911 call.

*“Automatic number identification ~~(ANI)~~”* or *“ANI”* means a capability that enables the automatic display of the number of the telephone used to place the 911 call.

~~*“Call attendant”* means the person who initially answers a 911 call.~~

*“Call detail recording”* means a means of establishing chronological and operational accountability for each 911 call processed, consisting minimally of the caller's telephone number, the date and time the 911 telephone equipment established initial connection (trunk seizure), the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line used, and the identity of the ~~call attendant's~~ public safety telecommunicator's position, also known as an ANI printout.

~~*“Call relay method”* means the 911 call is answered at the PSAP, where the pertinent information is gathered, and the call attendant relays the caller's information to the appropriate public or private safety agency for further action.~~

~~*“Call transfer method”* means the call attendant determines the appropriate responding agency and transfers the 911 caller to that agency.~~

*“Central office ~~(CO)~~”* or *“CO”* means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

~~“Coin-free access (CFA)”~~ or “CFA” means coin-free dialing or no-coin dial tone which enables a caller to dial 911 or “0” for operator without depositing money or incurring a charge.

“Communications service” means a service capable of accessing, connecting with, or interfacing with a 911 system by dialing, initializing, or otherwise activating the system exclusively through the digits 911 by means of a local telephone device, wireless communications device or any other device capable of interfacing with the 911 system.

“Competitive local exchange service provider” means the same as defined in Iowa Code section 476.96 34A.2.

~~“Conference transfer”~~ means the capability of transferring a 911 call to the action agency and allowing the call attendant to monitor or participate in the call after it has been transferred to the action agency.

“Direct dispatch method” means 911 call answering and radio-dispatching functions, for a particular agency, are both performed at the PSAP.

“Director,” unless otherwise noted, means the director of the homeland security and emergency management department.

“Emergency call” means a telephone request or text message request for service which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property and respond to other emergency situations determined by local policy.

“Emergency communications service surcharge” means a charge established by the program manager in accordance with Iowa Code section 34A.7A.

“Emergency services internet protocol network” or “ESInet” means a system using broadband packet-switched technology that is capable of supporting the transmission of varying types of data to be shared by all public and private safety agencies that are involved in an emergency.

“Enhanced 911 (~~E911~~)” or “E911” means the general term referring to emergency telephone systems with specific electronically controlled features, such as ALI, ANI, and selective routing.

“Enhanced 911 (~~E911~~) operating authority” means the public entity at the state or local level, which operates an ~~E911~~ a 911 telephone system for the public benefit, within a defined ~~enhanced~~ 911 service area.

“Enhanced wireless 911 service, phase I” means an emergency wireless telephone system with specific electronically controlled features such as ANI, specific indication of wireless communications tower site location, selective routing by geographic location of the tower site.

“Enhanced wireless 911 service, phase II” means an emergency wireless telephone system with specific electronically controlled features such as ANI and ALI and selective routing by geographic location of the 911 caller.

“Entry point” means the demarcation point(s), as designated by the 911 program manager, where originating service providers must deliver their 911 traffic for ingress into the state’s next generation 911 network.

“Exchange” means a defined geographic area served by one or more central offices in which the telephone company furnishes services.

“Geographic information system” or “GIS” means a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographical data.

“Implementation” means the activity between formal approval of an E911 service plan and a given system design, and commencement of operations.

“Joint 911 service board” means those entities that are created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code ~~subsection~~ section 34A.3(3); and that operate a 911 telephone system for the public benefit within a defined 911 service area.

“Local exchange carrier” means the same as defined in Iowa Code section 476.96 34A.2.

“Multi-line telephone system” or “MLTS” means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises-based systems, such as Centrex and VoIP, as well as PBX, hybrid, and key telephone systems,



## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

and includes systems owned or leased by governmental agencies and nonprofit entities, as well as for-profit businesses.

*“Next generation 911 network”* means an internet protocol-enabled system that enables the public to transmit digital information to public safety answering points and is responsible for the delivery of all 911 messages within the state. “Next generation 911 network” replaces enhanced 911 and includes but is not limited to 911 voice and nonvoice messages generated by originating service providers, ESInet, GIS, cybersecurity, and other system components.

*“Next generation 911 network service provider”* means a vendor or vendors selected by the department to provide next generation 911 network functionality.

*“911 emergency call”* or *“911 call”* means any telephone call that is made by dialing the digits 911 a communication initiated using the digits 911 and transported via the next generation 911 network, that includes voice, text, picture, multimedia, or any other type of data which is sent to a PSAP for the purpose of requesting emergency assistance.

*“911 call processing equipment”* means equipment owned by the department that functions in a host remote environment, provides 911 call processing functionality to public safety answering points, and utilizes the next generation 911 network. “911 call processing equipment” includes but is not limited to computer aided dispatch, voice logging recorders, mapping, and emergency medical dispatch.

*“911 call processing equipment provider”* means a vendor or vendors selected by the department to provide 911 call processing equipment.

*“911 call transport provider”* means a vendor or vendors selected by the department to deliver aggregated wireline 911 call traffic to the next generation 911 network and from the next generation 911 network to public safety answering points.

*“911 communications council”* means the council as established under the provisions of Iowa Code section 34A.15.

*“911 program manager”* means that person appointed by the director of the homeland security and emergency management department, and working with the 911 communications council, to perform the duties specifically set forth in Iowa Code chapter 34A and this chapter.

*“911 service area”* means the geographic area encompassing at least one entire county, and which may encompass a geographical area outside the one entire county not restricted to county boundaries, serviced or to be serviced under a 911 service plan.

*“911 service plan”* means a plan, produced by a joint 911 service board, which includes the information required by Iowa Code ~~subsection~~ section 34A.2(2) ~~as amended by 2018 Iowa Acts, House File 2254, section 2.~~

*“911 system”* means a telephone system that automatically connects a caller, dialing the digits 911, to a PSAP.

*“Nonrecurring costs”* means one-time charges incurred by a ~~joint E911 service board or operating 911~~ authority including, but not limited to, expenditures for E911 service plan preparation, capital outlay, communications equipment to receive and dispatch emergency calls, installation, and initial license to use subscriber names, addresses and telephone information.

*“One-button transfer”* ~~means another term for a (fixed) transfer which allows the call attendant to transfer an incoming call by pressing a single button. For example, one button would transfer voice and data to a fire agency, and another button would be used for police, also known as “selective transfer.”~~

*“Originating service provider”* means a communications provider that allows its users or subscribers to originate 911 voice or nonvoice messages from the public to public safety answering points, including but not limited to wireline, wireless, and voice over internet protocol services.

*“Political subdivision”* means a geographic or territorial division of the state that would have the following characteristics: defined geographic area, responsibilities for certain functions of local government, public elections and public officers, and taxing power. Excluded from this definition are departments and divisions of state government and agencies of the federal government.

*“Prepaid wireless telecommunications service”* means a wireless communications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services,

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

which must be paid for in advance, and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

*"Provider"* means a person, company or other business that provides, or offers to provide, 911 equipment, installation, maintenance, or access services.

*"Public or private safety agency"* means a unit of state or local government, a special purpose district, or a private firm, which provides or has the authority to provide firefighting, police, ambulance, emergency medical services or hazardous materials response.

*"Public safety answering point (PSAP)"* or *"PSAP"* means a 24-hour, state, local, or contracted communications facility, which has been designated by the local service board to receive 911 service calls and dispatch emergency response services in accordance with the E911 service plan.

*"Public safety telecommunicator"* or *"telecommunicator"* means the same as defined in Iowa Code section 80B.11C.

*"Public switched telephone network"* means a complex of diversified channels and equipment that automatically routes communications between the calling person and called person or data equipment.

*"Recurring costs"* means repetitive charges incurred by a ~~joint E911 service board~~ or operating 911 authority including, but not limited to, personnel time directly associated with database management and personnel time directly associated with addressing, lease of access lines, lease of equipment, network access fees, communications equipment to receive and dispatch emergency calls, and applicable maintenance costs.

*"Selective routing (SR)"* or *"SR"* means a 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a predesignated PSAP.

*"Subscriber"* means any person, firm, association, corporation, agencies of federal, state and local government, or other legal entity responsible by law for payment for communication service from the telephone utility.

*"Tariff"* means a document filed by a telephone company with the state telephone utility regulatory commission which lists the communication services offered by the company and gives a schedule for rates and charges.

*"Telecommunications device for the deaf (TDD)"* or *"TDD"* means any type of instrument, such as a typewriter keyboard connected to the caller's telephone and involving special equipment at the PSAP which allows an emergency call to be made without speaking, also known as a TTY.

*"Telematics"* means a vehicle-based mobile data application which can automatically call for assistance if the vehicle is in an accident.

*"Trunk"* means a circuit used for connecting a subscriber to the public switched telephone network.

*"Voice over internet protocol service"* or *"VoIP"* means a service to which all of the following apply:

1. The service provides real-time, two-way voice communications transmitted using internet protocol or a successor protocol.
2. The service is offered to the public, or such classes of users as to be effectively available to the public.
3. The service has the capability to originate traffic to, and terminate traffic from, the public switched telephone network or a successor network.

*"Wireless communications service"* means commercial mobile radio service. "Wireless communications service" includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. "Wireless communications service" does not include a service whose customers do not have access to 911 or 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

*"Wireless communications service provider"* means a company that offers wireless communications service to users of wireless devices including but not limited to cellular, personal communications services, mobile satellite services, and enhanced specialized mobile radio.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

“*Wireless E911 phase 1*” means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the address of the tower that received the call to the appropriate public safety answering point.

“*Wireless E911 phase 2*” means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

“*Wireless NG911 service area*” means the geographic area to be served, or currently served, by a PSAP under a wireless NG911 service plan.

“*Wireline 911 service surcharge*” means a charge assessed on each wireline access line which physically terminates within the 911 service area in accordance with Iowa Code section 34A.7.

ITEM 2. Amend subrule 10.4(2) as follows:

**10.4(2)** The 911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the director. Each plan shall include:

*a. to k.* No change.

*l.* Maps of the 911 service area showing: boundaries for all of the law enforcement agencies, firefighting districts, and ambulance and emergency medical service areas, and the location of each PSAP within the service area shall be uploaded and maintained within the program’s online NG911 GIS database.

~~(1) The jurisdictional boundaries of all law enforcement agencies serving the area.~~

~~(2) The jurisdictional boundaries of all firefighting districts and companies serving the area.~~

~~(3) The jurisdictional boundaries of all ambulance and emergency medical service providers operating in the area.~~

~~(4) The location of PSAP(s) within the service area.~~

~~*m.* A block drawing for each telephone central office within the service area showing the method by which the 911 call will be delivered to the PSAP(s).~~

~~*n. m.* A plan to migrate to an internet protocol-enabled next generation network.~~

ITEM 3. Rescind subparagraph **10.9(3)“f”(1)**.

ITEM 4. Renumber subparagraphs **10.9(3)“f”(2) to (4)** as **10.9(3)“f”(1) to (3)**.

ITEM 5. Amend paragraph **10.11(1)“c”** as follows:

*c.* For joint 911 service boards, withdrawal of moneys from the 911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or vice chairperson of the joint 911 service board or ~~the appropriate operating authority~~ delegated authority so designated in writing.

ITEM 6. Amend paragraph **10.14(1)“c”** as follows:

~~*c.* Ability to selectively route~~ Policy routing function.

ITEM 7. Amend subrule 10.14(2) as follows:

**10.14(2)** 911 public safety answering points shall adhere to the following minimum standards:

*a. to e.* No change.

~~*f.* If a call transfer method of handling 911 calls is employed, a 99 percent degree of reliability of transferred calls from a PSAP to responding agencies shall be maintained. All transferred calls shall employ, to the closest extent possible, conference transfer capabilities which provide that the call be announced and monitored by the PSAP operator to ensure that the call has been properly transferred.~~

~~*g.* PSAPs not employing the transfer method of handling 911 emergency calls shall use the call relay method. Information shall be exchanged between the PSAP receiving the call and an appropriate emergency response agency or dispatch center having jurisdiction in the area of the emergency. In no case during an emergency 911 call shall the caller be referred to another telephone number and required to hang up and redial. The call relay method shall also prevail in circumstances where emergency calls enter the 911 system (whether by design or by happenstance) from outside the E911 service area.~~

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

~~h. f.~~ Access control and security of PSAPs and associated dispatch centers shall be designed to prevent disruption of operations and provide a safe and secure environment of communication operations.

~~i. g.~~ PSAP supervision shall ensure that all ~~telephone company employees,~~ vendors whose normal activities may involve contact with facilities associated with the 911 service, are familiar with safeguarding of facilities' procedures.

~~j. h.~~ Emergency electrical power shall be provided for the PSAP environment that will ensure continuous operations and communications during a power outage. Such power should start automatically in the event of power failure and shall have the ability to be sustained for a minimum of 48 hours.

~~k. i.~~ The PSAP shall make every attempt to disallow the intrusion by automatic dialers, alarm systems, or automatic dialing and announcing devices on a 911 trunk. If intrusion by one of these devices should occur, those responsible for PSAP operations shall make every attempt to contact the responsible party to ensure there is no such further occurrence by notifying the party that knowing and intentional interference with emergency telephone calls constitutes a crime under Iowa Code section 727.5. Those responsible for PSAP operations shall report persons who repeatedly use automatic dialers, alarm systems, or automatic announcing devices on 911 trunk lines to the county attorney for investigation of possible violations of Iowa Code section 727.5.

~~l. j.~~ Each PSAP shall be equipped with an appropriate telecommunications device for the deaf (TDD) in accordance with 28 CFR ~~Part~~ §35.162, July 26, 1991.

~~k.~~ PSAPs will have the capability to access translation services to help process 911 calls from non-English speakers.

~~l.~~ Each PSAP shall adhere to NENA STA-020.1-2020 or its subsequently updated equivalent.

ITEM 8. Amend subrule 10.14(3) as follows:

**10.14(3)** Originating service providers shall adhere to the following minimum requirements:

~~a. and b.~~ No change.

~~c.~~ Access to the wireless 911 selective router and next generation 911 network shall be approved by the 911 program manager. Originating service providers must provide the company name, address and point of contact with their request. If the originating service provider utilizes a third-party vendor, the vendor must provide this information listing the vendor's customer's requested information. Originating service providers and MLTSs must update and maintain the state ALI database with accurate information. When delivering 911 calls, caller location must be provided in compliance with 47 CFR §9.8, 47 CFR §9.10, and 47 CFR §9.15.

~~d.~~ Access to the 911 entry point and next generation 911 network shall be approved by the 911 program manager. Originating service providers must provide the company name, address and point of contact with their request. If the originating service provider utilizes a third-party vendor, the vendor must provide this information listing the vendor's customer's requested information.

ITEM 9. Rescind subrule **10.14(4).**

[Filed 1/3/23, effective 3/1/23]

[Published 1/25/23]

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**ARC 6831C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to radiological detection equipment**

The Homeland Security and Emergency Management Department hereby rescinds Chapter 11, “Repair, Calibration, and Maintenance of Radiological Monitoring, Detection, and Survey Equipment,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 29C.8.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 23A.2 and 29C.8.

*Purpose and Summary*

This rule making rescinds Chapter 11, which relates to a function no longer performed by the Department. It also reserves Chapter 11 for future use.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6535C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Director on December 20, 2022.

*Fiscal Impact*

The Department received a small amount of fees for the calibration of radiological detection equipment. It was determined that this function was no longer sustainable within the Department, and the function was transferred to Iowa State University.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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).

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

*Effective Date*

This rule making will become effective on March 1, 2023.

The following rule-making action is adopted:

Rescind and reserve **605—Chapter 11**.

[Filed 1/3/23, effective 3/1/23]

[Published 1/25/23]

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**ARC 6829C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to mass notification and emergency messaging system**

The Homeland Security and Emergency Management Department hereby amends Chapter 15, "Mass Notification and Emergency Messaging System," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 29C.17A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 29C.17A.

*Purpose and Summary*

This rule making updates rules related to the Mass Notification and Emergency Messaging System to reflect current practices. The need to amend the procedures was discovered through the Department's five-year rules review.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6534C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Director on December 20, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 15.3(1), introductory paragraph, as follows:

**15.3(1)** A state agency or commission may apply to the department for access to the system for use by state, county and local officials. ~~The application is available on the department's Web site at [www.homelandsecurity.iowa.gov](http://www.homelandsecurity.iowa.gov).~~ The application shall contain the following:

ITEM 2. Rescind subrule **15.4(3)**.

ITEM 3. Renumber subrules **15.4(4)** and **15.4(5)** as **15.4(3)** and **15.4(4)**.

ITEM 4. Amend renumbered subrule 15.4(4) as follows:

**15.4(4)** The department has developed an operational plan and procedures template to be used by all state agencies and commissions making application to access the system. All operational plans and procedures developed by the state agencies or commissions and submitted for approval shall substantially conform to this template. ~~This template is available on the department's Web site at [www.homelandsecurity.iowa.gov](http://www.homelandsecurity.iowa.gov).~~

[Filed 1/3/23, effective 3/1/23]

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**ARC 6828C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to required report submissions**

The Homeland Security and Emergency Management Department hereby amends Chapter 104, "Required Reports and Records," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 30.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 30.2.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

*Purpose and Summary*

This rule making updates the address for submission of the reports required under the Emergency Planning and Community Right-to-Know Act. Updates to the implementation sentences for rules 605—104.1(30) and 605—104.2(30) are also made in order to update references to obsolete Iowa Code sections.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6526C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Director on December 20, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **605—104.1(30)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 30.5 and 30.9~~ section 30.2.

ITEM 2. Amend subrule 104.2(5) as follows:

**104.2(5) Submissions.** Written notifications and reports required under this rule shall be submitted to the Department of Natural Resources, ~~7900 Hickman Road, Suite 200, Windsor Heights, Iowa 50324~~ EPCRA, 502 East 9th Street, Des Moines, Iowa 50319. ~~For additional~~ Additional information, ~~see can~~ be found in rule 567—131.2(455B).



HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

ITEM 3. Amend rule **605—104.2(30)**, implementation sentence, as follows:  
This rule is intended to implement Iowa Code sections ~~30.5 and 30.8~~ 30.2 and 30.4.

[Filed 1/3/23, effective 3/1/23]

[Published 1/25/23]

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**ARC 6827C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

**Rule making related to mandatory reporter training**

The Board of Massage Therapy hereby amends Chapter 131, "Licensure of Massage Therapists," and Chapter 133, "Continuing Education for Massage Therapists," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 152C.3 and 2022 Iowa Acts, House File 2168.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 152C.3, 232.69 and 235B.16 and 2022 Iowa Acts, House File 2168.

*Purpose and Summary*

This rule making amends the Board's rules regarding mandatory reporter training in response to 2022 Iowa Acts, House File 2168. House File 2168 provides that massage therapists who treat children or dependent adults must complete mandatory reporter training, as opposed to only those therapists who work in certain settings, and further provides that mandatory reporter training shall count toward a licensed massage therapist's continuing education requirements. This rule making updates the Board's rules regarding mandatory reporter training to reflect these changes. Although the Board's rules already allow massage therapists to count mandatory reporter training toward their continuing education hours, the amendments update the rules to align with the specific language of House File 2168.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6597C**. A public hearing was held on November 8, 2022, at 8 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. Since publication of the Notice, a technical change was made in Item 2 to update the name of a national certification board.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 6, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Waivers*

A waiver provision is not included in this rule making 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.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule 131.8(4) and adopt the following **new** subrule in lieu thereof:

**131.8(4) Mandatory reporter training.**

*a.* If a licensee examines, attends, counsels, or treats children in the scope of the licensee's professional practice or employment responsibilities, the licensee shall complete training relating to the identification and reporting of child abuse every three years pursuant to Iowa Code section 232.69(3) "b." The licensee shall indicate on the renewal application completion of such training.

*b.* If a licensee examines, attends, counsels, or treats dependent adults in the scope of the licensee's professional practice or employment responsibilities, the licensee shall complete training relating to the identification and reporting of dependent adult abuse every three years pursuant to Iowa Code section 235B.16(5) "b." The licensee shall indicate on the renewal application completion of such training.

*c.* The course(s) shall be the curriculum provided by the department of health and human services.

*d.* The licensee shall maintain written documentation for three years after completing mandatory training, including program date(s), duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States; or

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill the requirements due to a physical or mental disability or illness as provided by rule 645—4.14(272C).

*f.* The board may select licensees for audit of compliance with the requirements of this subrule.

ITEM 2. Amend subrule 133.3(2) as follows:

**133.3(2) Specific criteria.** A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be hands-on training. A maximum of 8 hours of the 16 hours may be independent study. Licensees may obtain continuing education hours of credit by:

*a. to h.* No change.

*i.* Completing programs which enhance a supplemental or complementary skill set directly related to promoting the public health while providing massage therapy. Content areas include, but are not limited to, CPR, first aid, ~~mandatory reporter training~~, contraindication training, sanitation, and geriatric care.

*j.* Completing mandatory reporter training pursuant to Iowa Code sections 232.69 and 235B.16. One hour of credit will be awarded for each hour of completed mandatory reporter training.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~j.~~ k. Passing a board-approved national examination administered by the Federation of State Massage Therapy Boards or the National Certification Board for Therapeutic Massage ~~Therapy~~ and Bodywork within the biennial continuing education compliance period. A copy of the applicant's official notification may be used by the board as verification.

[Filed 12/28/22, effective 3/1/23]

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