IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor	Telephone: (515)281-6048	Email: Jack.Ewing@legis.iowa.gov
Publications Editing Office (Administrative Code)	Telephone: (515)281-3355	Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making
2021

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
20	**Friday, March 5, 2021**	**March 24, 2021**
21	**Friday, March 19, 2021**	**April 7, 2021**
22	**Friday, April 2, 2021**	**April 21, 2021**

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 Friday, February 26, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

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DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Petitions for rule making; waivers; reporting requirements, 7.1, 7.4, 7.5 Notice **ARC 5441C** 2/24/21

ECONOMIC DEVELOPMENT AUTHORITY[261]

Apprenticeships, amend chs 12, 13; adopt ch 14 Filed **ARC 5480C** 2/24/21
High quality jobs program—changing a maintenance period completion date, 187.3(1), 187.4(2)"d" Notice **ARC 5439C** 2/24/21
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Supplementary weighting—English language learners, 60.6 Notice **ARC 5464C** 2/24/21
Financial management of categorical funding—custodial funds, 98.101 Notice **ARC 5462C** 2/24/21

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Aftercare services program, 187.2(3)"c," 187.3 Filed **ARC 5420C** 2/10/21

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Waivers, amendments to ch 15 Filed **ARC 5482C** 2/24/21

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Licensure, criminal convictions, amend chs 2, 33, 36; adopt ch 31 Notice **ARC 5454C** 2/24/21

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Speech pathologists and audiologists—licensure, criminal convictions, wallet cards, 300.3, 300.9, 300.11, 304.2(11) Notice **ARC 5457C** 2/24/21
Athletic trainers—licensure, criminal convictions, wallet cards, 351.2(1), 351.3(3), 351.7, 351.9, 353.2(12) Notice **ARC 5461C** 2/24/21
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Professional Licensing and Regulation Bureau[193]
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notification of availability of unemployment insurance, 22.19 Filed **ARC 5486C** 2/24/21

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 Waylon Brown
2415 Highway 218
Osage, Iowa 50461

Senator Jesse Green
2344 360th Street
Harcourt, Iowa 50544

Senator Robert Hogg
P.O. Box 1361
Cedar Rapids, Iowa 52406

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Zach Whiting
P.O. Box 385
Spirit Lake, Iowa 51360

Jack Ewing
Administrative Code Editor
Capitol
Des Moines, Iowa 50319
Telephone: (515)281-6048
Fax: (515)281-8451
Email: Jack.Ewing@legis.iowa.gov

Representative Jon Jacobsen
1113 Arbor Ridge Drive
Council Bluffs, Iowa 51503

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
North Liberty, Iowa

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Mike Sexton
2202 Ogden Avenue
Rockwell City, Iowa 50579

Michael Boal
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: (515)281-5211

NOTE: See also the Advisory Notice on page 2010.

EDUCATION DEPARTMENT[281]

Open enrollment of special education students, 17.6(3), 17.11 IAB 2/24/21 **ARC 5463C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9 to 9:30 a.m.
Organization and operation, 1.4(1) IAB 2/24/21 **ARC 5479C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Procedures—and petitions for rule making, 2.7(3), 2.12(2), 2.17(3), 2.18 to 2.20 IAB 2/24/21 **ARC 5466C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Waivers, amendments to ch 4 IAB 2/24/21 **ARC 5465C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Work-based learning programs, amendments to ch 48 IAB 2/24/21 **ARC 5467C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 10 to 10:30 a.m.
Supplementary weighting—English language learners, 60.6 IAB 2/24/21 **ARC 5464C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 8 to 8:30 a.m.
Financial management of categorical funding—custodial funds, 98.101 IAB 2/24/21 **ARC 5462C**	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 8:30 to 9 a.m.

INSURANCE DIVISION[191]

Long-term care insurance, amendments to chs 39, 72 IAB 2/24/21 **ARC 5472C**	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	March 18, 2021 10 a.m. (If requested)

IOWA FINANCE AUTHORITY[265]

First amended 9 percent qualified allocation plan, 12.1(2), 12.2(2) IAB 2/24/21 **ARC 5468C**	Via telephone: 800.532.1215 Meeting link: teams.microsoft.com/l/meetup-join/19%3ameeting_NDUyZDI5YWMtOTUwMi00ZWZhLThmMmItZWZkNDllYmYzYzZl%40thread.v2/0?context=%7b%22Tid%22%3a%220e7d3946-58c8-40c4-b5ca-04ab67de9145%22%2c%22Oid%22%3a%223429e620-e9ba-450b-bd99-342e0c4f8d6c%22%7d	March 16, 2021 10 to 11 a.m.

LABOR SERVICES DIVISION[875]

Elevators—controlling or preventing access, alterations, agency address, waivers, amendments to chs 65 to 67, 69 to 72 IAB 2/10/21 **ARC 5436C**	Dial: 312.626.6799 Meeting ID number: 876 8129 4390 Pass code: 288604	March 3, 2021 9 a.m. (If requested)

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Five-year review of rules; continuing education; criminal convictions, 1.1, 1.2, 1.10(2), 2.2 to 2.5, 2.7, 2.8, 2.10, 2.11, 3.3, 4.1(7) IAB 2/10/21 **ARC 5430C**	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	March 2, 2021 2:30 to 3 p.m.

MEDICINE BOARD[653]

Licensure; criminal convictions, 9.3, 10.3, 10.4(2), 10.5(2), 17.4(1), 20.6, 20.20, 23.1, 25.25 IAB 2/24/21 **ARC 5473C**	Via Zoom: us02web.zoom.us/j/83065453200?pwd=NHllak42ckplaVNVUHREOEVvQ3J5QT09 Meeting ID: 830 6545 3200 Passcode: 103976 Phone: +1 312.626.6799 US (Chicago) (enter meeting ID and passcode)	March 16, 2021 1 to 2 p.m.

NATURAL RESOURCE COMMISSION[571]

Deer hunting by residents—firearms, 106.7, 106.10(5) IAB 2/10/21 **ARC 5435C**	Via video/conference call Contact Matt Bruner Email: matt.bruner@dnr.iowa.gov	March 2, 2021 12 noon to 1 p.m.

NURSING BOARD[655]

Licensure; criminal convictions, 3.1, 3.4(1), 3.5(1), 3.11, 4.6(7), 11.3(2)"f," 18.1, 18.3 IAB 2/24/21 **ARC 5460C**	Board Office, Suite B 400 S.W. Eighth St. Des Moines, Iowa	March 16, 2021 9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences licensees, instructors, salons, and schools—licensure, criminal convictions, wallet cards, 60.2, 60.4, 60.7(5), 60.8, 60.17(2), 61.2(5), 61.3(5), 61.5, 61.6, 61.8(2), 61.10, 65.2(12) IAB 2/24/21 **ARC 5455C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Hearing aid specialists—licensure, criminal convictions, wallet cards, 121.4, 121.6(7), 121.9, 124.2(16) IAB 2/24/21 **ARC 5445C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners—licensure, criminal convictions, wallet cards, 261.2(1)"a," 261.4, 261.8, 263.2(11) IAB 2/24/21 **ARC 5446C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Barbers, barber instructors, barbershops, and barber schools—licensure, criminal convictions, wallet cards, 21.5(5), 21.9, 25.2(11) IAB 2/24/21 **ARC 5450C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts—licensure, criminal convictions, wallet cards, 31.2(1), 31.3(6)"a," 31.8(3), 31.9(1), 31.11, 33.2(12) IAB 2/24/21 **ARC 5442C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Chiropractic physicians—licensure, criminal convictions, wallet cards, 41.6(3), 41.8, 45.2(11) IAB 2/24/21 **ARC 5448C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Dietitians—licensure, criminal convictions, wallet cards, 81.9, 83.2(12) IAB 2/24/21 **ARC 5452C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Funeral directors, funeral establishments, and cremation establishments—licensure, criminal convictions, wallet cards, 101.6(5), 101.7, 103.3(12) IAB 2/24/21 **ARC 5449C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Massage therapists—licensure, criminal convictions, wallet cards, 131.3(3), 131.6, 131.8, 134.2(11) IAB 2/24/21 **ARC 5443C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Nursing home administrators—licensure, criminal convictions, wallet cards, 141.2, 141.7, 141.9, 144.2(13) IAB 2/24/21 **ARC 5453C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Optometrists—licensure, criminal convictions, wallet cards, 180.2(1)"a," 180.3(9), 180.5, 183.2(11) IAB 2/24/21 **ARC 5458C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants—licensure, criminal convictions, wallet cards, 200.2(1), 200.7(6), 200.9, 202.2(11), 206.2(1), 206.9, 206.10, 209.2(11) IAB 2/24/21 **ARC 5456C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Podiatrists, orthotists, prosthetists, and pedorthists—licensure, criminal convictions, wallet cards, 220.2(1), 220.7(5), 220.9, 221.3(1), 221.5(3), 221.6(3), 221.7, 224.2(12) IAB 2/24/21 **ARC 5444C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Psychologists—licensure, criminal convictions, wallet cards, clinical records, 240.9, 240.10(4), 240.13, 242.2(12) IAB 2/24/21 **ARC 5451C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Social workers—licensure, criminal convictions, wallet cards, 280.3, 280.7, 280.9(6), 280.14(2), 283.2(11) IAB 2/24/21 **ARC 5447C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Speech pathologists and audiologists—licensure, criminal convictions, wallet cards, 300.3, 300.9, 300.11, 304.2(11) IAB 2/24/21 **ARC 5457C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Athletic trainers—licensure, criminal convictions, wallet cards, 351.2(1), 351.3(3), 351.7, 351.9, 353.2(12) IAB 2/24/21 **ARC 5461C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Sign language interpreters and transliterators—licensure, criminal convictions, wallet cards, 361.2(4), 361.4, 361.5, 363.2(11) IAB 2/24/21 **ARC 5459C**	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.

REVENUE DEPARTMENT[701]

Geothermal heat pump tax credit, 42.47 IAB 2/24/21 **ARC 5469C**	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	March 16, 2021 9 to 10 a.m. (If requested)
Solar energy system tax credit, 42.48, 52.44, 58.22 IAB 2/24/21 **ARC 5470C**	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	March 16, 2021 10 to 11 a.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Federal regulations—federal medical certificate form for commercial driver's license; motor carriers; hazardous materials, 520.1, 529.1, 607.28(7), 607.37(1)"a," 607.50 IAB 2/10/21 **ARC 5411C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 4, 2021 9 to 10 a.m. (If requested)
Holiday rest stops; promotion of Iowa agricultural products at interstate rest areas; maintenance bureau, 105.2(4), 105.4, 105.5, 106.3, 106.4 IAB 2/10/21 **ARC 5410C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 4, 2021 1 to 2 p.m. (If requested)
Transporter plates—contact information, form submission, application process, fees, 424.1(1), 424.4(2) IAB 2/10/21 **ARC 5413C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 4, 2021 10 to 11 a.m. (If requested)

UTILITIES DIVISION[199]

Hazardous liquid pipelines and underground storage, amendments to ch 13 IAB 1/27/21 **ARC 5403C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 15, 2021 1:30 to 4:30 p.m.
Electric utility service, amendments to ch 20 IAB 2/24/21 **ARC 5475C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 13, 2021 1:30 to 4 p.m.

VETERINARY MEDICINE BOARD[811]

Licensure by verification, 1.4, 6.6 to 6.8 IAB 2/10/21 **ARC 5434C**	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.
Registration as veterinary technician by verification, 8.11 IAB 2/10/21 **ARC 5432C**	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.
Applicants with work experience in jurisdictions without licensure requirements, 8.12 IAB 2/10/21 **ARC 5433C**	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 5441C

DENTAL BOARD[650]

Notice of Intended Action

Proposing rule making related to licensure and providing an opportunity for public comment

The Dental Board hereby proposes to amend Chapter 7, "Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and 2020 Iowa Acts, House File 2389.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments implement 2020 Iowa Acts, House File 2389, and provide updates to the requirements for petitions for rule making and waivers and reporting requirements related to the disposition thereof.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there is no impact on jobs since the legislation affects requests for rule waivers and does not directly affect requirements for licensure or the ability to practice dentistry.

Waivers

The rule making updates the requirements for a petition of a rule waiver and is not subject to requests for waiver under normal circumstances.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tiffany Allison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: Tiffany.Allison@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 rule 650—7.1(17A,147,153) as follows:

650—7.1(17A,147,153) Petition for rule making.

7.1(1) and **7.1(2)** No change.

7.1(3) The petition is filed when it is received by the board. Within 14 days after the filing of a petition is received, the board shall submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee (ARRC).

7.1(4) Upon receipt of the petition, the board shall take the petition under advisement. The board may request additional information from the petitioner or the board office. Upon request by the petitioner, the board shall schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of board staff to discuss the petition. The board may also solicit comments from any person on the substance of the petition. Any person may submit to the board comments on the substance of the petition.

7.1(5) No change.

7.1(6) The board shall deny the petition or initiate rule-making procedures within 60 days after filing of the petition. In the case of a denial, the board shall state in writing its reasons for the denial. The petitioner and the ARRC shall be notified ~~by mail~~ in writing of the board action taken.

This rule is intended to implement Iowa Code sections 17A.3(1) and 17A.7.

ITEM 2. Amend rule 650—7.4(17A,147,153) as follows:

650—7.4(17A,147,153) Waivers.

7.4(1) *Definition.* For purposes of this rule, "a waiver ~~or variance~~" means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a "waiver" and a "variance."~~

7.4(2) and **7.4(3)** No change.

7.4(4) *Criteria for waiver.* In response to a petition ~~completed pursuant to subrule 7.4(6)~~, the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

a. to *d.* No change.

7.4(5) *Filing of petition.* A petition for a waiver must be submitted in writing to the board as follows:

a. to *c.* No change.

d. A petition is deemed filed when it is received at the board's office. A petition ~~should be sent~~ may be filed using the online form, emailed to IDB@iowa.gov, or mailed to the Iowa Dental Board ~~of Dental Examiners~~, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. The petition must ~~be typewritten or legibly handwritten in ink and substantially conform to the form~~ include the content specified in ~~650—7.5(17A,147,153)~~ subrule 7.4(6).

7.4(6) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, email address, and telephone number of the person for whom a waiver is being requested and a reference to any related contested case. Also, the name, address, email address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

b. and *c.* No change.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 7.4(4). ~~This statement shall include a signed statement from the~~ The petitioner ~~attesting~~ shall attest to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

~~*e.* A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, registration, certification, or permit affected by the proposed waiver, including a description of each affected license, registration, certification, or permit held by the requester, any formal charges filed, any notices of violation, contested case hearings, or investigations relating to the regulated activity, license, registration, certification or permit.~~

~~*f.* Any information known to the requester regarding the board's action in similar circumstances.~~

~~*g.* The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of a waiver.~~

~~*h.* The name, address, and telephone number of any person who would be adversely affected by the grant of the petition.~~

~~*i.*~~ *e.* The name, address, email address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

~~*j.* Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.~~

7.4(7) *Additional information.* Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. ~~If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive director, a committee of the board, or a quorum of the board.~~

7.4(8) *Notice.* ~~The board shall acknowledge a petition upon receipt. Except where otherwise provided by law, every petition shall be served by the petitioner upon each of the parties of record of the proceeding, and on all other persons identified in the petition for waiver as affected by the petition, simultaneously with the filing. The petitioner shall serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided. In addition, the board may give notice to other persons.~~ The board shall provide public notice by including any petitions for waiver on the agenda of the board meeting during which the petition for waiver will be discussed.

~~**7.4(9)** *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case. A person who objects to a denial of a waiver in proceedings other than a contested case hearing may make an informal appearance before the board to request reconsideration.~~

~~**7.4(10)**~~ **7.4(9)** *Ruling.* An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. and *b.* No change.

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

~~*d.* *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.~~

~~*e.*~~ *d.* *Conditions.* The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

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

~~*g.*~~ *f.* *Time for ruling.* The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued. The board may issue a waiver in conjunction with an application that remains in place in perpetuity.

~~*h.*~~ *g.* *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

~~*i.*~~ *h.* *Service of order.* Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains~~, and to any other person entitled to such notice by any provision of law~~.

i. *Delegation.* The board may authorize staff to administratively approve additional petitions for waiver under the same parameters as an approved petition.

7.4(11) No change.

7.4(12) ~~*Summary reports*~~ *Submission of waiver information.* ~~Semiannually, the board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~ Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, and a citation to the statutory provisions implemented by these rules. The submission shall include a general summary of the reasons justifying the board's action on waiver requests. If practical, the submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of waiver has affected the general applicability of the rule itself.

7.4(13) *Cancellation of a waiver.* A waiver issued by the board pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

a. and *b.* No change.

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

d. The rule cited in the waiver has been amended since the waiver was issued.

7.4(14) to **7.4(16)** No change.

This rule is intended to implement Iowa Code chapters 17A, 147, and 153.

ITEM 3. Rescind and reserve rule **650—7.5(17A,147,153)**.

ARC 5439C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to high quality jobs program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 187, "Contracting," 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 chapters 15 and 15E.

Purpose and Summary

Pursuant to rules 261—187.3(15) and 261—187.4(15), participants in the High Quality Jobs Program (Program) must seek approval from the Economic Development Authority Board to amend the maintenance period completion date specified in Program agreements. It is as of that date that the Authority determines whether a business is in compliance with the job maintenance obligations required by the Program. The Authority intends to amend these rules to allow greater flexibility for businesses impacted by the COVID-19 pandemic that would otherwise be temporarily in default of their job maintenance obligations.

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 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 March 16, 2021. Comments should be directed to:

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

Public Hearing

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 subrule 187.3(1) as follows:

187.3(1) Projects shall be completed by the project completion date and maintained through the end of the maintenance date. The contract will establish the duration of the project period and maintenance period. Requests to change the project completion date and the maintenance period completion date shall follow the process for an amended award or contract as described in rule 261—187.4(15). A business that was in compliance with its maintenance obligations as of March 1, 2020, but not in compliance during the COVID-19 impacted period described below, may request, and the director may approve, a change to the maintenance period completion date if the business demonstrates to the authority's satisfaction that it failed to comply because of the COVID-19 pandemic. The business shall describe the impact of the pandemic on its ability to comply in such form and content acceptable to the authority. For the purposes of this subrule, "COVID-19 impacted period" means the period between March 2, 2020, and June 30, 2021. The board shall have the authority to extend the COVID-19 impacted period beyond June 30, 2021, if the board determines such extension is justified by continued widespread impacts on the ability of businesses participating in the program to comply with maintenance obligations because of COVID-19.

ITEM 2. Amend paragraph **187.4(2)"d"** as follows:

d. ~~*Exception*~~ *Exceptions.* Notwithstanding paragraph 187.4(2)*"c,"* the director may approve contract amendments for the targeted industries internship program consistent with Iowa Code section 15.106C, or a change to the maintenance period completion date for a business impacted by the COVID-19 pandemic as described in subrule 187.3(1), without board approval.

ARC 5438C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 199, "Uniform Waiver and Variance Rules," 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 chapters 15 and 17A and 2020 Iowa Acts, House File 2389.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Purpose and Summary

2020 Iowa Acts, House File 2389, amended Iowa Code section 17A.9A to remove references to "variances" and change how agencies report on rule waivers that are granted or denied. The proposed changes to Chapter 199 amend the rules to conform to the changes implemented by House File 2389, delete references to repealed programs, and replace references to the "department of economic development" and the "department" with references to the "economic development authority" and "authority." The amendments also clarify that a waiver may be granted only in response to a petition and may not be granted on the Director's or Board's own motion.

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 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 March 16, 2021. Comments should be directed to:

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

Public Hearing

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 **261—Chapter 199**, title, as follows:

UNIFORM WAIVER ~~AND VARIANCE~~ RULES

ITEM 2. Amend rule 261—199.1(ExecOrd11) as follows:

261—199.1(~~ExecOrd11~~ 17A,15) Applicability. This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the ~~department~~ authority. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the ~~department~~ authority.

199.1(1) *Definitions.*

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

"Board" ~~or *"IDED board"*~~ means the ~~Iowa department of economic development board created by Iowa Code chapter 15~~ members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

~~*"Department"* or *"IDED"* means the Iowa department of economic development authorized by Iowa Code chapter 15.~~

"Director" means the director of the ~~department of economic development~~ authority or the director's designee.

"Director/board" means either the director or the board depending on which one has decision-making authority pursuant to rule 261—199.2(~~ExecOrd11~~ 17A,15).

"Person" means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any legal entity.

"Waiver ~~or variance~~" means an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

199.1(2) *Authority.*

a. A waiver ~~or variance~~ from rules adopted by the ~~department~~ authority may be granted in accordance with this chapter if (1) the ~~department~~ authority has exclusive rule-making authority to promulgate the rule from which waiver ~~or variance~~ is requested or has final decision-making authority over a contested case in which a waiver ~~or variance~~ is requested; and (2) no statute or rule otherwise controls the grant of a waiver ~~or variance~~ from the rule from which waiver ~~or variance~~ is requested.

b. No waiver ~~or variance~~ may be granted from a requirement which is imposed by statute. Any waiver ~~or variance~~ must be consistent with statute.

ITEM 3. Amend rule 261—199.2(ExecOrd11) as follows:

261—199.2(~~ExecOrd11~~ 17A,15) Director/board discretion. The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the director upon consideration of all relevant factors~~, except for the below-listed programs, for which the board shall make the decision, upon consideration of all relevant factors:~~. The director may refer a petition for waiver to the board for decision. In the case of petition referred to the board by the director, the board shall make the decision on whether the circumstances justify the granting of a waiver, upon consideration of all relevant factors.

~~1. Community Economic Betterment Account (CEBA) program, 261—Chapter 53.~~

~~2. New Jobs and Income Program (NJIP), 261—Chapter 58.~~

~~3. Workforce Development Fund, 261—Chapter 8.~~

~~4. Accelerated Career Education Program Physical Infrastructure Assistance Program (ACE PIAP), 261—Chapter 20.~~

199.2(1) *Criteria for waiver ~~or variance~~.* The director/board may, in response to a completed petition ~~or on its own motion~~, grant a waiver ~~or variance~~ from a rule, in whole or in part, as applied to the circumstances of a specified situation if the director/board finds each of the following:

a. Application of the rule to the person at issue would result in undue hardship ~~or injustice~~ to that person; and

b. Waiver ~~or variance~~ on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and

c. Waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and

d. Where applicable, substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

In determining whether waiver ~~or variance~~ should be granted, the director/board shall consider whether the underlying public interest policies and legislative intent of the rules are substantially equivalent to full compliance with the rule. When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the director/board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all licensees, grantees and constituents.

199.2(2) *Special waiver ~~or variance~~ rules not precluded.* These uniform waiver ~~and variance~~ rules shall not preclude the director/board from granting waivers ~~or variances~~ in other contexts or on the basis of other standards if a statute or other ~~department~~ rule authorizes the director/board to do so, and the director/board deems it appropriate to do so.

ITEM 4. Amend rule 261—199.3(ExecOrd11) as follows:

261—199.3(~~ExecOrd11~~ 17A,15) Requester's responsibilities in filing a waiver ~~or variance~~ petition.

199.3(1) *~~Application~~ Petition.* All petitions for waiver ~~or variance~~ must be submitted in writing to the Iowa ~~Department of~~ Economic Development Authority, Office of the Director, ~~200 East Grand~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa ~~50309-1819~~ 50315, Attention: Legal Counsel. Petitions for waiver may be delivered, mailed, or sent by email or other electronic means reasonably calculated to reach the intended recipient. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

199.3(2) *Content of petition.* A petition for waiver ~~or variance~~ shall include the following information where applicable and known to the requester (for an example of a petition for waiver ~~or variance~~, see Exhibit A at the end of this chapter):

a. A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.

b. The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.

c. The relevant facts that the petitioner believes would justify a waiver ~~or variance~~.

d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.

e. A history of any prior contacts between the ~~department~~ authority and the petitioner relating to the regulated activity, license, grant, loan or other financial assistance affected by the proposed waiver ~~or variance~~, including a description of each affected license, grant, loan or other financial assistance held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the last five years.

f. Any information known to the requester regarding the ~~department's~~ authority's treatment of similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver ~~or variance~~.

h. The name, address, and telephone number of any person or entity who would be adversely affected by the grant of a petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver ~~or variance~~.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the ~~department~~ authority with information relevant to the waiver ~~or variance~~.

199.3(3) *Burden of persuasion.* When a petition is filed for a waiver ~~or variance~~ from a ~~department~~ rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the director/board should exercise its discretion to grant the petitioner a waiver ~~or variance~~.

ITEM 5. Amend rule 261—199.4(ExecOrd11) as follows:

261—199.4(~~ExecOrd11~~ 17A,15) Notice. The ~~department~~ authority shall acknowledge a petition upon receipt. The ~~department~~ authority shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the ~~department~~ authority may give notice to other persons. To accomplish this notice provision, the ~~department~~ authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law or who may be impacted by the requested waiver, and provide a written statement to the ~~department~~ authority attesting that notice has been provided.

ITEM 6. Amend rule 261—199.5(ExecOrd11) as follows:

261—199.5(~~ExecOrd11~~ 17A,15) ~~Department~~ Authority responsibilities regarding petition for waiver ~~or variance~~.

199.5(1) *Additional information.* Prior to issuing an order granting or denying a waiver ~~or variance~~, the director/board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the director/board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the director/board, the director's/board's designee, a committee of the board, or a quorum of the board.

199.5(2) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (a) to any petition for a waiver ~~or variance~~ of rule filed within a contested case; (b) when the director/board so provides by rule or order; or (c) when a statute so requires.

199.5(3) *Ruling.* An order granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

199.5(4) *Conditions.* The director/board may condition the grant of the waiver ~~or variance~~ on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

199.5(5) *Time for ruling.* The director/board shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable, but in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the director/board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

199.5(6) and **199.5(7)** No change.

ITEM 7. Rescind rule 261—199.6(ExecOrd11) and adopt the following **new** rule in lieu thereof:

261—199.6(17A,15) Submission of waiver information. Within 60 days of granting or denying a waiver, the authority shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rule(s) for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

ITEM 8. Amend rule 261—199.7(ExecOrd11) as follows:

261—199.7(~~ExecOrd11~~ 17A,15) Voiding or cancellation. A waiver ~~or variance~~ is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director/board may at any time cancel a waiver ~~or variance~~ upon appropriate notice if the director/board

finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver ~~or variance~~ have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

ITEM 9. Amend rule 261—199.8(ExecOrd11) as follows:

261—199.8(~~ExecOrd11~~ 17A,15) Violations. Violation of conditions in the waiver ~~or variance~~ approval is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

ITEM 10. Amend rule 261—199.9(ExecOrd11) as follows:

261—199.9(~~ExecOrd11~~ 17A,15) Defense. After the director/board issues an order granting a waiver ~~or variance~~, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

ITEM 11. Amend rule 261—199.10(ExecOrd11,17A) as follows:

261—199.10(~~ExecOrd11,~~17A,15) Appeals. Granting or denying a request for waiver ~~or variance~~ is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A

Sample Petition (Request) for Waiver/~~Variance~~

BEFORE THE IOWA ~~DEPARTMENT OF~~ ECONOMIC DEVELOPMENT AUTHORITY	
Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	PETITION FOR WAIVER

Requests for waiver ~~or variance~~ from ~~a department~~ an authority rule shall include the following information in the petition for waiver ~~or variance~~ where applicable and known:

a. Provide the petitioner's (person asking for a waiver ~~or variance~~) name, address, and telephone number.

b. Describe and cite the specific rule from which a waiver ~~or variance~~ is requested.

c. Describe the specific waiver ~~or variance~~ requested; include the exact scope and time period that the waiver ~~or variance~~ will extend.

d. Explain the important facts that the petitioner believes justify a waiver ~~or variance~~. Include in your answer why (1) applying the rule will result in hardship or injustice to the petitioner; and (2) granting a waiver ~~or variance~~ to the petitioner is consistent with the public interest; and (3) granting the waiver ~~or variance~~ will not prejudice the substantial legal rights of any person; and (4) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

e. Provide history of prior contacts between the ~~department~~ authority and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be affected by the waiver ~~or variance~~; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the last five years.

f. Provide information known to the petitioner regarding the ~~department's~~ authority's treatment of similar cases.

g. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver ~~or variance~~.

h. Provide the name, address, and telephone number of any person or entity who would be adversely affected or disadvantaged by the grant of the waiver ~~or variance~~.

i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver ~~or variance~~.

j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the ~~department~~ authority with information relevant to the waiver ~~or variance~~.

I hereby attest to the accuracy and truthfulness of the above information.

_____ _____

Petitioner's signature Date

Petitioner should note the following when requesting or petitioning for a waiver ~~or variance~~:

1. The petitioner has the burden of proving, by clear and convincing evidence, the following to the director/board: (a) application of the rule to the petitioner would result in hardship or injustice to the petitioner; and (b) waiver ~~or variance~~ on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

2. The ~~department~~ authority may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver ~~or variance~~.

3. All petitions for waiver ~~or variance~~ must be submitted in writing to the Iowa ~~Department of~~ Economic Development Authority, Office of the Director, ~~200 East Grand~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa ~~50309-1819~~ 50315, Attention: Legal Counsel. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 12. Amend **261—Chapter 199**, implementation sentence, as follows:

These rules are intended to implement ~~Executive Order Number 11 and 2000 Iowa Acts, House File 2206~~ Iowa Code section 17A.9A and chapter 15.

ARC 5479C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to the organizational structure of the department of education and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.9(3).

Purpose and Summary

This proposed rule making updates the organizational structure of the Department of Education.

EDUCATION DEPARTMENT[281](cont'd)

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Fax: 515.242.5988
Email: thomas.mayes@iowa.gov

Public Hearing

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

March 16, 2021 9:30 to 10 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via video conference: https://idoe.zoom.us/j/98069592361?pwd= VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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 1.4(1) as follows:

1.4(1) *Organization.*

EDUCATION DEPARTMENT[281](cont'd)

a. Office of the director. The director is the chief administrator of the department and serves as chief executive officer of the state board of education. Within the office of the director, there are two offices, each headed by a deputy director: the office of learning, results, and programs, and the office of operations and initiatives.

~~*b. Division of community colleges and workforce preparation.* The division oversees career and technical education as well as the community colleges.~~

~~*c. Division of financial and information services.* The division provides internal operations and information technology to the agency as well as planning, research and evaluation services.~~

~~*d. Division of early childhood, elementary and secondary education.* The division consists of bureaus that oversee instructional services, practitioner preparation, administration and school improvement services, and food and nutrition services.~~

b. Division of learning, results, and programs. The division consists of bureaus that oversee instructional services; practitioner preparation; administration and school improvement services; food and nutrition services; and planning, research, and evaluation services. The division is within the office of learning, results, and programs.

c. Division of community colleges and workforce preparation. The division oversees career and technical education as well as the community colleges. The division is within the office of operations and initiatives.

d. Division of finance and support services. The division provides accounting and internal operations and information technology to the agency, and it also oversees school business operations. The division is within the office of operations and initiatives. The division administrator is the department's chief financial officer.

e. to *g.* No change.

ARC 5466C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to agency procedure and petitions for rule making and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 2, "Agency Procedure for Rule Making and Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

Purpose and Summary

This proposed rule making modernizes the Department's procedures for rule making in light of the revisions to the Iowa Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

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.

EDUCATION DEPARTMENT[281](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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

March 16, 2021 9:30 to 10 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via video conference: idoe.zoom.us/j/98069592361?pwd= VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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** subrule 2.7(3):

2.7(3) *Jobs impact statement.* The agency shall prepare a jobs impact statement for each proposed rule, as required by Iowa Code section 17A.4B, unless waived by the administrative rules coordinator. The analysis in the jobs impact statement shall give particular weight to jobs in production sectors of the economy, which includes the manufacturing and agricultural sectors of the economy, and shall include analysis, where applicable, of the impact of the rule on expansion of existing businesses or facilities.

If a jobs impact statement is revised after a notice of intended action or a rule filed without notice pursuant to Iowa Code section 17A.4(3) is published, the revised jobs impact statement shall be published

as part of the preamble to the adopted version of the rule, unless the administrative rules coordinator determines that publication of the entire jobs impact statement would be unnecessary or impractical.

ITEM 2. Amend subrule 2.12(2) as follows:

2.12(2) *Incorporation by reference.* The agency may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the agency finds that the incorporation of its text in the agency proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the agency proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The agency may incorporate such matter by reference in a proposed or adopted rule only if the agency makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from this agency, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The agency shall retain permanently a copy of any materials incorporated by reference in a rule of the agency.

If the agency adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically. The agency may establish alternative procedures providing for public access to an electronic or printed copy of a publication containing standards adopted by reference if the publication is proprietary or contains proprietary information.

ITEM 3. Adopt the following **new** subrule 2.17(3):

2.17(3) Beginning July 1, 2012, over each five-year period of time, the agency shall conduct an ongoing and comprehensive review of all of the agency's rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies. The agency shall commence its review by developing a plan of review in consultation with major stakeholders and constituent groups. When the agency completes the five-year review of the agency's own rules, the agency shall provide a summary of the results to the administrative rules coordinator and the administrative rules review committee.

ITEM 4. Amend rule 281—2.18(17A) as follows:

281—2.18(17A) Petition for rule making. A petition requesting the adoption, amendment, or repeal of a rule shall be filed with the department of education at the Grimes State Office Building, Second Floor, Des Moines, Iowa 50319-0146. A petition is deemed filed when it is received by that office. The department of education shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose.

2.18(1) *Form.* The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF EDUCATION

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

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the petition is based.
2. The precise citation to the present rule if the petition is for the amendment or repeal of the same.
3. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, and any other relevant law.
4. A summary of the reasons for requesting the adoption, amendment or repeal of a rule.

5. Full disclosure of the petitioner's interest in the outcome of the petition.

6. A statement indicating whether the petitioner is currently a party to another proceeding involving the issue(s) raised by the petition and whether, to the petitioner's knowledge, those issues have been decided by, are pending determination by, or are under investigation by, any other governmental entity.

7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the issue(s) presented in the petition.

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

2.18(2) *Response to petition.* Within 60 days after submission of a petition, the agency either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter, or adopt a rule if it is not required to be filed according to the procedures of this chapter and Iowa Code section 17A.4(1). The agency shall submit the petition and the disposition of the petition to the administrative rules review committee.

ITEM 5. Renumber rule **281—2.19(17A)** as **281—2.20(17A)**.

ITEM 6. Adopt the following **new** rule 281—2.19(17A):

281—2.19(17A) Rule-making Internet site. Subject to the direction of the administrative rules coordinator, the agency shall make available to the public a uniform, searchable, and user-friendly rules database, published on an Internet site. An agency's rule-making Internet site shall also make available to the public all of the following:

2.19(1) A brief summary of the rule-making process, including a description of any opportunity for public participation in the process.

2.19(2) Process forms for filing comments or complaints concerning proposed or adopted rules.

2.19(3) Process forms and instructions for filing a petition for rule making pursuant to rule 281—2.18(17A), a petition for a declaratory order pursuant to 281—Chapter 3, or a petition for a waiver of an administrative rule pursuant to 281—Chapter 4.

2.19(4) Any other material prescribed by the administrative rules coordinator.

ITEM 7. Amend **281—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 256.7(3) and chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202~~.

ARC 5465C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 4, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

This rule making modernizes the Department's procedures for waiver of rules in light of the revisions to the Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

March 16, 2021 9:30 to 10 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa 50319 Via videoconference: idoe.zoom.us/j/98069592361?pwd= VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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).

EDUCATION DEPARTMENT[281](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend **281—Chapter 4**, title, as follows:

WAIVERS ~~OR VARIANCES~~ FROM ADMINISTRATIVE RULES

ITEM 2. Amend rule **281—4.1(17A,ExecOrd11)**, definition of "Waiver or variance," as follows:

"Waiver ~~or variance~~" means action by the director which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a "waiver" and a "variance."~~

ITEM 3. Amend rule 281—4.6(17A,ExecOrd11) as follows:

281—4.6(17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver ~~or variance~~ requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 281—4.4(17A,ExecOrd11). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board, the department and the petitioner relating to the regulated activity, license, or grant affected by the proposed waiver, including a description of each affected item held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, or grant within the last five years.
6. A detailed statement of the impact on student achievement for any person affected by the granting of a waiver.
7. Any information known to the requester regarding the board's or department's treatment of similar cases.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

ITEM 4. Amend rule 281—4.11(17A,ExecOrd11) as follows:

281—4.11(17A,ExecOrd11) Public availability. All orders granting or denying a waiver petition shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. The director may accordingly redact confidential information from petitions or orders prior to public inspection. Waiver information is available as described in rule 281—4.12(17A,ExecOrd11).

ITEM 5. Amend rule 281—4.12(17A,ExecOrd11) as follows:

281—4.12(17A,ExecOrd11) ~~Summary reports~~ Submission of waiver information. ~~Semiannually, the~~ When the department grants or denies a waiver, the department shall ~~prepare a summary report identifying~~ submit the information required by this rule on the Internet site established pursuant to Iowa Code section 17A.9A(4) within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the ~~board's~~ department's actions on waiver requests. If practicable, the ~~report~~ submission shall ~~detail~~ include information detailing the extent to which the granting of a waiver has established a precedent

for additional waivers and has affected the general applicability of the rule itself. ~~Copies of the report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ARC 5463C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to open enrollment of special education students and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 17, "Open Enrollment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2082.

Purpose and Summary

These proposed amendments modernize the language used in provisions on open enrollment of special education students, based on 2020 Iowa Acts, Senate File 2082. No substantive change is intended. These proposed amendments also conform the federal process for resolving disputes regarding placement of students with disabilities in school choice programs.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

EDUCATION DEPARTMENT[281](cont'd)

Public Hearing

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

March 16, 2021 9 to 9:30 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd= VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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 subrule 17.6(3) as follows:

17.6(3) *Policy on insufficient classroom space.* No receiving district shall be required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board shall adopt a policy which defines the term "insufficient classroom space" for that district. This policy shall establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but shall not be limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, ~~law or rules governing~~ special education class size or caseload established pursuant to rule 281—41.408(256B,273,34CFR300), or board-adopted district educational goals and objectives. This policy shall be reviewed annually by the district board.

ITEM 2. Amend rule 281—17.11(282) as follows:

281—17.11(282) Special education students. If a parent/guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B and 281—Chapter 41, this request shall receive consideration under the following conditions.

17.11(1) *Appropriateness of program.* The request shall be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with Iowa rules of special education, 281—Chapter 41. This determination shall be made by the receiving district in consultation with the resident district and the appropriate area education agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil shall remain enrolled in the program of the resident district until a final determination is made, unless all parties otherwise agree, as provided in 281—Chapter 41. ~~If the appropriateness of the special education program in the resident district is questioned by the parent, then the parent may request a due process hearing as provided by 281—41.507(256B,34CFR300) or a mediation conference as provided by 281—41.506(256B,34CFR300).~~ If the appropriateness

of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program shall be the responsibility ~~of the director of special education of the area education agency in which the receiving district is located, based upon the decision~~ of the child's individualized education program team, which shall include a representative from the resident district that has the authority to commit district resources, and which decision is subject to the parent's procedural safeguards under 281—Chapter 41.

17.11(2) *Class size and caseload.* The provisions of subrule 17.6(3) apply to requests for open enrollment for a child with a disability. The following conditions apply:

a. The enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload set forth in subrule 17.6(3).

b. If the child would be assigned to a general education class, there is sufficient classroom space, as established in subrule 17.6(3), for the general education class to which the child would be assigned.

17.11(3) *Transportation.* District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil shall be as provided by ~~rule~~ rules 281—17.9(282) and 281—41.412(256B,34CFR300).

17.11(4) *Finance.* The district of residence shall pay to the receiving district on the schedule set forth in subrule 17.10(5) the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. The receiving district and the receiving area education agency director shall provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district shall provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are required to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency.

ARC 5467C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to work-based learning programs and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 48, "Statewide Work-Based Learning Intermediary Network," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2629.

Purpose and Summary

2020 Iowa Acts, House File 2629, requires the Department to establish "a process by which the department shall approve state-recognized work-based learning programs," a process established by these rules.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

Any fiscal impact of this rule making is capped by a General Fund appropriation (Fiscal Note, House File 2629, July 14, 2020).

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

March 16, 2021 10 to 10:30 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via video conference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend **281—Chapter 48**, title, as follows:
~~STATEWIDE~~ WORK-BASED LEARNING ~~INTERMEDIARY NETWORK~~

ITEM 2. Adopt the following **new** 281—Chapter 48, Division I heading:

DIVISION I
STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

ITEM 3. Adopt the following **new** 281—Chapter 48, Division II heading:

DIVISION II
FUTURE READY IOWA STATE-RECOGNIZED WORK-BASED LEARNING PROGRAMS

ITEM 4. Adopt the following **new** rule 281—48.5(256):

281—48.5(256) Program established. The provisions of this division implement the future ready Iowa state-recognized work-based learning program as authorized under Iowa Code sections 256.7 and 261.131.

48.5(1) *Definitions.* As used in this rule:

"Apprenticeship program" means an apprenticeship program authorized under federal statute or by the state board of education pursuant to this chapter.

"Eligible program" means a program eligible under the future ready Iowa skilled workforce last-dollar scholarship program.

48.5(2) *Alignment with last-dollar scholarship.* Except as provided in this chapter, the rules governing eligibility for students, programs, and institutions shall be the same as the eligibility criteria specified in 283—Chapter 15 for the future ready Iowa skilled workforce last-dollar scholarship program.

48.5(3) *Eligibility.* Pursuant to283—subparagraph 15.3(1)*"j"*(2), a student enrolled in an apprenticeship program aligned to an eligible program may be enrolled in an eligible program on a part-time basis.

This rule is intended to implement Iowa Code section 256.7.

ARC 5464C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to weighting for English language learners and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 60, "Programs for Students of Limited English Proficiency," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2013 Iowa Acts, Senate File 452, and 2014 Iowa Acts, Senate File 2347.

Purpose and Summary

The above-referenced Senate Files made changes in supplementary weighting for students who are English language learners. This proposed rule making conforms rules to those Senate Files.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

This rule making has no present fiscal impact to the State of Iowa, the legislation having already taken effect.

Jobs Impact

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

Waivers

The proposed amendments, being required by statute, are not subject to waiver.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

March 16, 2021 8 to 8:30 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd= VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend subrule 60.6(1) as follows:

60.6(1) *Weighting.* A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding ~~four~~ five years to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum.

a. A student may be included for weighting if the student meets the definition of a limited English proficient student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

b. A student may be included for weighting up to ~~four consecutive~~ five years, which need not be consecutive.

c. ~~If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, but returned to the same district by the date specified for counting students in the subsequent year, the student is considered to be served in consecutive years without regard to the break in instruction from the district~~ A student's eligibility for additional weighting is transferable to another district of residence.

~~*d.* If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, and did not return to the same district by the date specified for counting students in the subsequent year, but did return to the same district in a later year, the student is considered to be a new student eligible to begin in year one if the student meets the requirements in paragraph *"a."*~~

ITEM 2. Amend subrule 60.6(2) as follows:

60.6(2) ~~*Modified allowable growth*~~ *Supplemental aid or modified supplemental amount.* In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified ~~allowable growth~~ supplemental amount for an unusual need to continue funding beyond the ~~four~~ five years of weighting or for costs in excess of the weighting to provide instruction to limited English proficient students above the costs of regular instruction.

a. A school district of residence may apply to the SBRC by the date specified in rule 289—6.3(257) for supplemental aid or a modified ~~allowable growth to the SBRC~~ supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as limited English proficient who are provided instruction beyond the regular instruction. The eligible supplemental aid or modified ~~allowable growth~~ supplemental amount will be calculated as the total actual ~~budgeted~~ limited English proficient program (more commonly referred to as "English language learner program") expenditures for the ~~current~~ previous year, reduced by the limited English proficient funding generated in the ~~current~~ previous budget year based on the limited English proficient count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. ~~In order to~~ A district of residence may apply to the SBRC for supplemental aid or a modified ~~allowable growth under this subrule, the district must complete and submit the application form~~ supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than ~~January 15~~ December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as limited English proficient who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.6(1), multiplied by the district cost per pupil in the current year.

c. The SBRC will act on ~~these~~ the requests ~~during~~ described in paragraphs 60.6(2)*"a"* and *"b"* no later than its March regular meeting. If the SBRC grants the district's request for supplemental aid or a modified ~~allowable growth~~ supplemental amount, the department of management will increase the district's budget authority by that amount.

~~*e.*~~ The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified ~~allowable growth~~ supplemental amount.

ARC 5462C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to custodial funds and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2082.

Purpose and Summary

This proposed rule making renames a fund to align with current governmental accounting terminology and to conform to a legislative change.

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

This rule amendment is required by statute and is not waivable.

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

EDUCATION DEPARTMENT[281](cont'd)

March 16, 2021 8:30 to 9 a.m.	Room B100 Grimes State Office Building Des Moines, Iowa Via video conference: idoe.zoom.us/j/98069592361?pwd=VHRHQXlUOXF6ZnV4YjJ4Q2dwSzBVZz09

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

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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 rule 281—98.101(298A) as follows:

281—98.101(298A) ~~Agency~~ Custodial funds. ~~Agency~~ Custodial funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. ~~Agency~~ Custodial funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization which has its own federal identification number (FIN). In ~~an agency~~ a custodial fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. ~~Agency~~ Custodial funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) *Sources of receipts in ~~agency~~ custodial funds.* Sources of receipts in ~~the agency~~ custodial funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

98.101(2) *Appropriate uses of ~~agency~~ custodial funds.* Appropriate disbursements from ~~an agency~~ a custodial fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) *Inappropriate uses of ~~agency~~ custodial funds.* Inappropriate disbursements from ~~agency~~ custodial funds include any disbursement which is not consistent with the terms of the agreement, not legal to a school district, or that exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

ARC 5471C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to travel trailers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 58, "Emergency Assistance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 29C.

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendments increase the time frame in which a person or household may stay in a travel trailer or fifth-wheel travel trailer from 90 days to 180 days before the travel trailer is considered a permanent place of habitation. This change was enacted in 2019 Iowa Acts, Senate File 435.

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 March 16, 2021. 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

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.

HUMAN SERVICES DEPARTMENT[441](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 rule **441—58.1(29C)**, definitions of "Fifth-wheel travel trailer" and "Travel trailer," as follows:

"Fifth-wheel travel trailer," as set forth in Iowa Code section 321.1(36C)(c), means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 45 feet. If the vehicle is used in this state as a place of human habitation for more than ~~90~~ 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

"Travel trailer," as set forth in Iowa Code section 321.1(36C)(b), means a vehicle without motive power used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons. The vehicle may be up to 8 feet, 6 inches in width and its overall length shall not exceed 45 feet. The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If the vehicle is used in this state as a place of human habitation for more than ~~90~~ 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

ARC 5472C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to long-term care insurance and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 39, "Long-Term Care Insurance," and Chapter 72, "Long-Term Care Asset Preservation Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 514G.111 and 514H.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 514G and 514H.

Purpose and Summary

These proposed amendments to these chapters are a result of the Division's five-year review of rules. These amendments update the chapters by correcting statutory, Iowa Acts, and website references. Changes are made to Chapter 72 to reflect the repeal of Iowa Code chapter 249G. The rules in Chapter 72 are still necessary in order to set forth the requirements for policies sold prior to December 31, 2009.

Fiscal Impact

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

INSURANCE DIVISION[191](cont'd)

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 Commissioner for a waiver of the discretionary provisions, if any.

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 Division no later than 4:00 p.m. on March 18, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held electronically, with no in-person attendance, on March 18, 2021, at 10 a.m. Persons wishing to attend the hearing should contact Tracy Swalwell. A conference call number will be provided prior to the hearing.

Persons who wish to make oral comments at the hearing must submit a request to Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on March 16, 2021.

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 191—39.2(514G) as follows:

191—39.2(514G) Authority. This chapter is issued pursuant to the authority vested in the commissioner under Iowa Code section ~~514G.7~~ 514G.105 in accordance with the procedures set forth in Iowa Code chapter 17A.

ITEM 2. Amend subrule 39.5(19) as follows:

39.5(19) *"Similar policy forms"* means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition of group long-term care insurance in Iowa Code section

~~514G.4(4)~~ 514G.103 are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, noninstitutional long-term care benefits only, or comprehensive long-term care benefits.

ITEM 3. Amend paragraph **39.6(2)"b"** as follows:

b. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in Iowa Code section ~~514G.7(3)*"b"*~~ 514G.105(3)*"b"* expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in Iowa Code section ~~514G.7(3)*"b."*~~ 514G.105(3)*"b."*

ITEM 4. Amend subrule 39.6(7), introductory paragraph, as follows:

39.6(7) *Electronic enrollment for group policies.* In the case of ~~a~~ group ~~defined in Iowa Code section 514G.4(4)~~ long-term care insurance, any requirement that a signature of an insured be obtained by a producer or insurer shall be deemed satisfied if:

ITEM 5. Amend subrule 39.7(5) as follows:

39.7(5) *Other limitations or conditions on eligibility for benefits.* A long-term care insurance policy or certificate containing any limitations or conditions for eligibility, other than those prohibited in Iowa Code section ~~514G.7(4)*"b,"*~~ 514G.105(3)*"b,"* shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits."

ITEM 6. Amend subrule 39.8(5) as follows:

39.8(5) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated and shall annually furnish this information to the insurance commissioner in the format prescribed by the National Association of Insurance Commissioners, substantially similar to Appendix A.

ITEM 7. Amend subrule 39.10(2) as follows:

39.10(2) Where the policy is issued to a group, the required offer in subrule 39.10(1) shall be made to the group policyholder; except, if the policy is issued to a group defined in Iowa Code section ~~514G.4(5)*"d,"*~~ 514G.103(9)*"d,"* other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder.

ITEM 8. Amend subrule 39.11(1), introductory paragraph, as follows:

39.11(1) Application forms shall include the following questions designed to elicit information whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing such questions may be used. With regard to a replacement policy issued to a group defined by Iowa Code section ~~514G.4(5)*"a,"*~~ 514G.103(9)*"a,"* the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement.

ITEM 9. Amend rule 191—39.14(514G) as follows:

191—39.14(514G) Filing requirement. Prior to an insurer or similar organization's offering group long-term care insurance to a resident of this state pursuant to Iowa Code section ~~514G.4(5)*"d,"*~~ 514G.103(9)*"d,"* it shall file with the commissioner evidence that the group policy or certificate

thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

ITEM 10. Amend rule 191—39.18(514G), introductory paragraph, as follows:

191—39.18(514G) Standard format outline of coverage. This rule, which is not applicable to life policies with long-term care riders attached, implements, interprets and makes specific the provisions of Iowa Code section ~~514G.7(1)~~ 514G.105 in prescribing a standard format and the content of an outline of coverage.

ITEM 11. Amend subrule 39.29(2) as follows:

39.29(2) When a group long-term care insurance policy is issued, the offer required in subrule 39.29(1) shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance to a group as defined in Iowa Code section ~~514G.4(4)~~ ~~*"d,"*~~ 514G.103(9)*"d,"* other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

ITEM 12. Amend paragraph **39.30(7)"b"** as follows:

b. For certificates issued on or after July 1, 2003, under ~~a~~ group long-term care insurance ~~policy~~ as defined in Iowa Code section ~~514G.4(4)~~ ~~*"a"*~~ 514G.103 that was in force on February 1, 2003, the provisions of this rule shall not apply.

ITEM 13. Amend rule 191—39.41(514G) as follows:

191—39.41(514G) Purpose. This division is intended to implement Iowa Code chapter 514G ~~as amended by 2008 Iowa Acts, House File 2694,~~ to provide a uniform process for insureds covered under long-term care insurance to request an independent review of a denial of coverage based on a benefit trigger determination.

ITEM 14. Amend rule 191—39.43(514G) as follows:

191—39.43(514G) Definitions. For purposes of this division, the definitions found in ~~2008 Iowa Acts, House File 2694, section 4,~~ Iowa Code section 514G.103 shall apply.

ITEM 15. Amend rule 191—39.44(514G) as follows:

191—39.44(514G) Notice of benefit trigger determination and content. The notice required by ~~2008 Iowa Acts, House File 2694, section 10,~~ Iowa Code section 514G.109 shall contain the following information:

1. The reason that the insurer determined that the policy benefit trigger has not been met by the insured.
2. A description of the internal appeal mechanism provided under the long-term care policy.
3. A description of how the insured, after exhausting the insurer's internal appeal process, has the right to have the benefit trigger determination reviewed under the independent review process required by ~~2008 Iowa Acts, House File 2694, section 11~~ Iowa Code section 514G.110.

ITEM 16. Amend subrule 39.47(1) as follows:

39.47(1) The commissioner shall provide written notice of the certification decision to the insurer and the insured within the two-business-day period specified in ~~2008 Iowa Acts, House File 2694, section 11~~ Iowa Code section 514G.110.

ITEM 17. Amend subrule 39.51(2), introductory paragraph, as follows:

39.51(2) Each insurer shall provide the commissioner a detailed description of the process that the insurer has in place to ensure compliance with the requirements of this division and of ~~2008 Iowa Acts, House File 2694, sections 10 and 11~~ Iowa Code sections 514G.109 and 514G.110. The description required by this subrule shall be filed in a format as directed by the commissioner on or before March 1, 2009, and thereafter as requested by the commissioner. The description shall include:

ITEM 18. Amend subrule 39.53(5) as follows:

39.53(5) Procedures to ensure adherence to the requirements of this division and Iowa Code chapter 514G ~~as amended by 2008 Iowa Acts, House File 2694,~~ by any contractor, subcontractor, subvendor, agent or employee affiliated with the independent review entity.

ITEM 19. Amend rule 191—39.54(514G) as follows:

191—39.54(514G) Toll-free telephone number. The independent review entity shall establish a toll-free telephone service to receive information relating to independent reviews pursuant to this division and Iowa Code chapter 514G ~~as amended by 2008 Iowa Acts, House File 2694~~. The system shall include a procedure to ensure the capability of accepting, recording, or providing instruction to respond to incoming telephone calls during other than normal business hours. The independent review entity shall also establish a facsimile and electronic mail service.

ITEM 20. Amend rule **191—39.75(514H,83GA,HF723)**, parenthetical implementation statute, as follows:

191—39.75(514H,~~83GA,HF723~~) Purpose.

ITEM 21. Amend subrule 39.75(1) as follows:

39.75(1) This division is intended to implement Iowa Code chapter 514H ~~as amended by 2009 Iowa Acts, House File 723,~~ and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, to establish, in conjunction with the department of human services, a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and Iowa Medicaid. This program is also known as the long-term care asset disregard incentive program.

ITEM 22. Amend rule **191—39.76(514H,83GA,HF723)**, parenthetical implementation statute, as follows:

191—39.76(514H,~~83GA,HF723~~) Effective date.

ITEM 23. Amend rule 191—39.77(514H,83GA,HF723), introductory paragraph, as follows:

191—39.77(514H,~~83GA,HF723~~) Definitions. For purposes of this division, the definitions in Iowa Code chapter 514H ~~as amended by 2009 Iowa Acts, House File 723,~~ and ~~the definitions in~~ rule 191—39.4(514G) shall apply. In addition, the following definitions shall apply:

ITEM 24. Amend rule **191—39.77(514H,83GA,HF723)**, definition of "Iowa long-term care partnership policy," as follows:

"Iowa long-term care partnership policy" or *"partnership policy"* means an insurance policy that meets the following requirements:

1. and 2. No change.

3. The policy meets all of the applicable requirements of this chapter and Iowa Code chapter 514H ~~as amended by 2009 Iowa Acts, House File 723~~.

4. and 5. No change.

ITEM 25. Amend rules **191—39.78(514H,83GA,HF723)** to **191—39.85(514H,83GA,HF723)**, parenthetical implementation statutes, by striking "514H,83GA,HF723" wherever it appears and inserting "514H" in lieu thereof.

ITEM 26. Amend subrule 39.80(2) as follows:

39.80(2) An insurer or a producer soliciting or offering to sell a partnership policy shall provide to each prospective applicant a copy of the Iowa Long-Term Care Partnership Program Consumer Guide. The Iowa Long-Term Care Partnership Program Consumer Guide ~~form~~ may be found ~~on the division's website, www.iid.state.ia.us~~ at shiip.iowa.gov.

INSURANCE DIVISION[191](cont'd)

ITEM 27. Amend **191—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 514D.9~~, Iowa Code chapter~~ and chapters514G and ~~Iowa Code chapter~~514H ~~as amended by 2009 Iowa Acts, House File 723~~.

ITEM 28. Amend **191—Chapter 39**, Appendix I, Additional Information section, as follows:

Additional Information

If you have questions regarding the long-term care insurance policies or certificates, please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Iowa Department of Human Services (~~Sally Oudekerk, Medicaid Policy Specialist, Bureau of Medical Support~~ Allison Scott, Medicaid Program Manager, telephone number ~~(515)281-3709~~ (515)418-3497, email address ~~soudeke@dhs.state.ia.us~~ ascott@dhs.state.ia.us).

ITEM 29. Amend rule 191—72.1(249G) as follows:

191—72.1(~~249G~~ 514H) Purpose. The purpose of this chapter is to ~~establish~~ set forth the minimum standards for long-term care insurance policies ~~and certificates to qualify for participation~~ sold prior to December 31, 2009, that participate in the Iowa long-term care asset preservation program; establish documentation and reporting requirements for issuers of policies or certificates to qualify under the Iowa long-term care asset preservation program; provide full disclosures in the sale of long-term care insurance policies and certificates which qualify under the Iowa long-term care asset preservation program; and facilitate public understanding regarding long-term care insurance and long-term care insurance policies and certificates which qualify under the Iowa long-term care asset preservation program.

ITEM 30. Amend rule 191—72.2(249G) as follows:

191—72.2(~~249G~~ 514H) Applicability and scope. The requirements of this chapter apply to any long-term care insurance policy or certificate that was authorized for sale by the division of insurance as qualifying under the Iowa long-term care asset preservation program under former Iowa Code chapter 249G. No long-term care insurance policy or certificate which has been approved by the division of insurance as a certified long-term care insurance policy or certificate under this chapter may be advertised, solicited, or issued for delivery in this state after December 31, 2009.

ITEM 31. Amend rules **191—72.3(249G)** to **191—72.15(249G)**, parenthetical implementation statutes, by striking "249G" wherever it appears and inserting "514H" in lieu thereof.

ITEM 32. Amend rule **191—72.3(249G)**, definition of "Long-term care asset preservation program," as follows:

"Long-term care asset preservation program" means the program authorized in former Iowa Code chapter 249G.

ITEM 33. Amend rule **191—72.3(249G)**, definition of "Preadmission screening program," as follows:

"Preadmission ~~screening program~~ review" means the program which requires that each person seeking admission to a nursing facility must be screened and approved for admission ~~by the Iowa Foundation of Medical Care~~ in accordance with ~~441 IAC 81.3(249A)~~ 441—81.3(249A).

ITEM 34. Amend paragraphs **72.7(1)"c"** and **"d"** as follows:

c. Include a provision that the policy or certificate will utilize the "insured event" criteria, defined in ~~72.3(249G)~~ rule191—72.3(514H), for determining eligibility for benefits and for determining the amount of asset disregard. Approval for admission to a nursing facility under the "preadmission screening program," as defined in ~~72.3(249G)~~ rule191—72.3(514H), shall be deemed sufficient but not necessary to meet this insured event criteria.

d. Include a provision that policy or certificate benefits can be used to purchase nursing facility care or home- and community-based care. Home- and community-based care shall include, at a minimum, but not be limited to, the following:

(1) to (5) No change.

All home- and community-based services shall include case management services delivered by a case management agency. An asset disregard will be provided for all benefits used by qualified insureds to purchase "Medicaid-eligible long-term care services" as defined in ~~72.3(249G)~~ rule191—72.3(514H).

ITEM 35. Amend paragraph **72.7(1)"i"** as follows:

i. Include a provision that benefits shall only be paid after the payment of all other benefits to which the policyholder or certificate holder is otherwise entitled, excluding Medicaid. The issuer shall make reasonable efforts to determine whether benefits are available from other policies or certificates or from Medicare. An asset disregard will only be provided for benefits the issuer can document were used to purchase Medicaid-eligible long-term care services as defined in ~~72.3(249G)~~ rule 191—72.3(514H) for a qualified insured.

ITEM 36. Amend paragraph **72.13(1)"b"** as follows:

b. The issuer shall agree to give the commissioner access to all information described in rule ~~72.10(249G)~~ 191—72.10(514H) on an aggregate basis for all policyholders or certificate holders and on an individual basis for all policyholders or certificate holders who have ever received any benefits. Access to information on persons who have not applied for Medicaid is required in order for the commissioner to determine if an issuer's system for documenting asset protection is functioning correctly. The commissioner shall have the final decision concerning the frequency of access to the data and the size of samples for auditing or other purposes.

ITEM 37. Amend **191—Chapter 72**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapter ~~249G~~ 514H.

ARC 5468C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rule making related to first amended 9% qualified allocation plan and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to amend Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35, Internal Revenue Code Section 42, and Public Law 116-260.

Purpose and Summary

The Authority has been designated as the housing credit agency for the allowance of low-income housing credits under the state housing credit ceiling. The Consolidated Appropriations Act of 2021 allocates disaster tax credits under the low-income housing tax credit program for 12 Iowa counties impacted by the August 2020 derecho (i.e., the derecho disaster set-aside credits). To allow developers to apply for derecho disaster set-aside credits as part of the 2021 round of tax credits, the Authority proposes an amendment to the 2020-21 9% QAP to be known as the First Amended 9% QAP.

Fiscal Impact

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

IOWA FINANCE AUTHORITY[265](cont'd)

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on job creation in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

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 265—Chapter 18.

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 March 16, 2021. Comments should be directed to:

Dave Vaske
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.452.0400
Email: dave.vaske@iowafinance.com

Public Hearing

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

March 16, 2021 10 to 11 a.m.	Via telephone: 800.532.1215 Meeting link: teams.microsoft.com/l/meetup-join/19%3ameeting_NDUyZDI5YWMtOTUwMi00ZWZhLThmMmItZWZkNDllYmYzYzZl%40thread.v2/0?context=%7b%22Tid%22%3a%220e7d3946-58c8-40c4-b5ca-04ab67de9145%22%2c%22Oid%22%3a%223429e620-e9ba-450b-bd99-342e0c4f8d6c%22%7d

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

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

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 subrule 12.1(2) as follows:

12.1(2) *Nine percent qualified allocation plan.* The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 9% Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2020, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 First Amended 9% Qualified Allocation Plan ("first amended 9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2021, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP ~~is~~ and the first amended 9% QAP are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to November 6, 2019. The first amended 9% QAP does not include any amendments or editions created subsequent to February 3, 2021.

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) *9% QAP.* The 9% QAP and the first amended 9% QAP can be reviewed and copied in ~~its~~ their entirety on the authority's website at ~~www.iowafinanceauthority.gov~~ www.iowafinance.com. Copies of the 9% QAP and the first amended 9% QAP, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of November 6, 2019. The first amended 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of February 3, 2021. Additionally, both the 9% QAP ~~incorporates~~ and the first amended 9% QAP incorporate by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

ARC 5473C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to licensure and criminal convictions and providing an opportunity for public comment

The Board of Medicine hereby proposes to amend Chapter 9, "Permanent and Administrative Medicine Physician Licensure," Chapter 10, "Resident, Special and Temporary Physician Licensure," Chapter 17, "Licensure of Acupuncturists," Chapter 20, "Licensure of Genetic Counselors," Chapter 23, "Grounds for Discipline," and Chapter 25, "Contested Case Proceedings," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement 2020 Iowa Acts, House File 2627, and provide the inclusion of new subrules and amendments to existing subrules concerning the use of criminal convictions in eligibility determinations and initial licensing decisions.

Fiscal Impact

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

MEDICINE BOARD[653](cont'd)

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 Board for a waiver of the discretionary provisions, if any.

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 Board no later than 4:30 p.m. on March 17, 2021. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 SW Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@iowa.gov

Public Hearing

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

March 16, 2021 1 to 2 p.m.	Zoom link: us02web.zoom.us/j/83065453200?pwd=NHllak42ckplaVNVUHREOEVvQ3J5QT09 Meeting ID: 830 6545 3200 Passcode: 103976 Phone: +1 312.626.6799 US (Chicago) (enter meeting ID and passcode)

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

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

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 653—9.3(147,148) as follows:

653—9.3(147,148) Eligibility for licensure.

9.3(1) and **9.3(2)** No change.

9.3(3) *Use of criminal convictions in eligibility determinations and initial licensing decisions.*

a. Definitions.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

b. License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to paragraph 9.3(3)*"c,"* the applicant's convictions will be reviewed when the board receives a completed license application.

(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

(3) An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

(6) Any application fees paid will not be refunded if the license is denied.

c. Eligibility determination.

(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

(2) To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

1. A completed petition for eligibility determination form;
2. The complete criminal record for each of the petitioner's convictions;
3. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
4. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
5. Payment of a nonrefundable fee of $25.

d. Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner fails to timely appeal, the board's written decision will become a final order.

(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

(2) The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

(3) The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions

include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

e. Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

ITEM 2. Amend rule 653—10.3(147,148) as follows:

653—10.3(147,148) Resident physician licensure.

10.3(1) No change.

10.3(2) *Resident ~~licensure~~ license eligibility.* To be eligible for a resident license, an applicant shall meet all of the following requirements:

a. to *c.* No change.

d. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.3(3) to **10.3(11)** No change.

ITEM 3. Amend subrule 10.4(2) as follows:

10.4(2) *Special license eligibility.* To be eligible for a special license, an applicant shall meet all of the following requirements:

a. to *f.* No change.

g. Demonstrate English proficiency as set forth in subparagraph 10.4(3)*"a"*(4); ~~and~~

h. Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted~~.~~; and

i. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

ITEM 4. Amend subrule 10.5(2) as follows:

10.5(2) *~~Eligibility for a temporary~~ Temporary license eligibility.* To be eligible for a temporary license, an applicant shall meet all of the following requirements:

a. to *e.* No change.

f. Present a letter justifying the need for temporary licensure from the organization or individual seeking the applicant's participation in a board-approved activity~~.~~;

g. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

ITEM 5. Amend subrule 17.4(1) as follows:

17.4(1) *Eligibility requirements.* To be licensed to practice acupuncture by the board, a person shall meet all of the following requirements:

a. to *e.* No change.

f. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

ITEM 6. Amend rule 653—20.6(148H) as follows:

653—20.6(148H) Qualifications for licensure.

20.6(1) and **20.6(2)** No change.

20.6(3) The board may deny an applicant a license due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

ITEM 7. Amend rule 653—20.20(147,148H,272C) as follows:

653—20.20(147,148H,272C) Grounds for discipline of genetic counselors. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148H, or 272C or the rules promulgated thereunder. These grounds for discipline apply to genetic counselors. This rule is not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), when the board determines that the licensee is guilty of any of the following acts or offenses:

20.20(1) Violating any of the grounds for revocation or suspension of a license as listed in Iowa Code section 147.55, 148H.7, ~~or~~ 272C.10, or 272C.15.

20.20(2) to **20.20(34)** No change.

ITEM 8. Amend rule 653—23.1(272C) as follows:

653—23.1(272C) Grounds for discipline. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, 252J, ~~or~~ 272C ~~or 2008 Iowa Acts, Senate File 2428, division II,~~ or 272D or the rules promulgated thereunder. The grounds for discipline apply to physicians and acupuncturists. This rule is not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), including civil penalties in an amount not to exceed $10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

23.1(1) Violating any of the grounds for the revocation or suspension of a license as listed in Iowa Code section 147.55, 148.6, 148E.8, ~~or~~ 272C.10, or 272C.15.

23.1(2) to **23.1(48)** No change.

This rule is intended to implement Iowa Code chapters 17A, 147, 148 ~~and~~, 272C and ~~2008 Iowa Acts, Senate File 2428, division II~~ 272D.

ITEM 9. Amend rule 653—25.25(272C) as follows:

653—25.25(272C) Disciplinary sanctions.

25.25(1) and **25.25(2)** No change.

25.25(3) Notwithstanding subrule 25.25(1), pursuant to Iowa Code section 272C.15, the board may only revoke or suspend a license for the commission of a crime if the offense directly relates to the duties and responsibilities of the profession, as defined in 653—paragraph 9.3(3)*"a."*

ARC 5460C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to licensure and criminal convictions and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Chapter 4, "Discipline," Chapter 11, "Examination of Public Records," and Chapter 18, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C.

NURSING BOARD[655](cont'd)

Purpose and Summary

The proposed amendments implement 2020 Iowa Acts, House File 2627, which made various amendments to Iowa Code chapter 272C. This rule making updates existing rules to conform with updated statutory language and implements new provisions by:

- Updating the Board's rules regarding use of criminal histories when issuing licenses;
- Updating the Board's rules regarding criminal convictions as grounds for discipline;
- Updating the Board's rules to reference new Iowa Code section 272C.15 as authority to collect criminal records;
- Adopting rules to effectuate the new eligibility determination procedure created in new Iowa Code section 272C.15(5); and
- Removing the term "spouse" from Chapter 18 as a result of 2020 Iowa Acts, House File 2627, section 24, which struck Iowa Code section 272C.4(13).

Fiscal Impact

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

Jobs Impact

There is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Board Office, Suite B 400 S.W. Eighth Street Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a persons' comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs. Face masks and appropriate social distancing will be required.

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 **655—3.1(17A,147,152,272C)**, definition of "Fees," as follows:

"Fees" means those fees collected which are based upon the cost of sustaining the board's mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. to 14. No change.

15. Petition for eligibility determination, $25.

ITEM 2. Amend subrule 3.4(1) as follows:

3.4(1) *Board application.* A graduate of an approved nursing program seeking initial licensure shall submit the following:

a. to *c.* No change.

d. ~~Copies of relevant court documents if~~ If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. No change.

ITEM 3. Amend subrule 3.5(1) as follows:

3.5(1) *Board application.* A graduate of an approved nursing program seeking licensure in Iowa who has been licensed in another state shall submit the following:

a. to *c.* No change.

d. ~~Copies of relevant court documents if~~ If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. to *h.* No change.

ITEM 4. Adopt the following **new** rule 655—3.11(272C):

655—3.11(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

3.11(1) *Definitions.*

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

"License" means a license issued by the board.

3.11(2) *License application.* Unless an applicant for licensure petitions the board for an eligibility determination pursuant to subrule 3.11(3), the applicant's convictions will be reviewed when the board receives a completed license application.

a. An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

c. An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

d. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

e. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

f. Any application fees paid will not be refunded if the license is denied.

3.11(3) *Eligibility determination.*

a. An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

b. To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed eligibility determination form;

(2) The complete criminal record for each of the petitioner's convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should deem the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

(5) Payment of a nonrefundable fee of $25.

3.11(4) *Appeal.* A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

a. An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

b. The contested case hearing shall be closed to the public and the board's review of a proposed decision shall occur in closed session.

c. The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon the satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

d. A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

3.11(5) *Future petitions or applications.* If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

ITEM 5. Rescind subrule 4.6(7) and adopt the following **new** subrule in lieu thereof:

4.6(7) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ITEM 6. Amend subparagraph **11.3(2)"f"(1)** as follows:

(1) Records pertaining to licensure by examination may include:

1. to 5. No change.

6. Past felony record. This information is collected pursuant to Iowa Code section ~~147.3~~ 272C.15.

7. to 9. No change.

ITEM 7. Amend subparagraph **11.3(2)"f"(2)** as follows:

(2) Records pertaining to licensure by endorsement may include:

1. to 3. No change.

4. Past felony record. This information is collected pursuant to Iowa Code section ~~147.3~~ 272C.15.

5. to 8. No change.

ITEM 8. Amend subparagraph **11.3(2)"f"(3)** as follows:

(3) Licensure by renewal, reinstatement and reactivation.

1. No change.

2. Past felony record. This information is collected pursuant to Iowa Code section ~~147.3~~ 272C.15.

3. No change.

ITEM 9. Rescind the definition of "Spouse" in rule **655—18.1(272C)**.

ITEM 10. Amend rule 655—18.3(272C) as follows:

655—18.3(272C) Veteran ~~and active duty military spouse~~ reciprocity.

18.3(1) A veteran ~~or spouse~~ with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran ~~or spouse~~ must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran ~~or spouse~~ under this subrule shall be given priority and shall be expedited.

18.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including but not limited to completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) ~~or as a spouse as defined in rule 655—18.1(272C)~~.

18.3(3) to **18.3(5)** No change.

18.3(6) A veteran ~~or spouse~~ who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

ARC 5454C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to licensure and criminal convictions and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 2, "Pharmacist Licenses"; adopt a new Chapter 31, "Criminal Convictions"; and amend Chapter 33, "Military Service and Veteran Reciprocity," and Chapter 36, "Discipline," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.10, 147.11, 147.44, 147.80, 155A.11 and 155A.40 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10, 147.11, 147.44, 147.80, 155A.11 and 155A.40 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, enacted during the 2020 Legislative Session. The proposed amendments provide:

- Issuance of a temporary pharmacist license for license transfer candidates who have met all other licensing requirements while the applicant schedules the jurisprudence examination,
- Removal of the term "spouse" in Chapter 33 as a result of the repeal of Iowa Code section 272C.4(13),
- Updates to the implementation references in Chapter 33,
- Addition of a new Chapter 31 to identify the use of a criminal conviction in determining an individual's eligibility to apply for licensure or registration or in denying, revoking, or suspending a license or registration,
- Allowance of a pharmacist license transfer candidate to license transfer based on a current and active license in another state that is not required to be the original license by examination, and
- Requirement that a pharmacist who is seeking reactivation of a pharmacist license must complete a criminal history background check.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many pharmacist license transfer candidates will opt to request a temporary pharmacist license pending their jurisprudence examination, which would result in the Board collecting a $20 processing fee (for initial temporary licensure and an additional $20 for renewal, if requested). It also is unknown how many individuals would seek eligibility determination due to a criminal conviction in advance of an application, which would result in the collection by the Board of a $25 fee to recover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

There is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

PHARMACY BOARD[657](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 Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 rule 657—2.3(147,155A) as follows:

657—2.3(147,155A) License and criminal history record check required.

2.3(1) *License required.* Prior to engaging in the practice of pharmacy in Iowa, a pharmacist shall have an active Iowa pharmacist license ~~pursuant to rule 657—2.4(147,155A), 657—2.8(155A), or 657—2.9(147,155A)~~.

2.3(2) *Criminal history record check required.* Upon receipt of an ~~initial licensure~~ application for initial licensure pursuant to subrule 2.3(1)~~,~~ or for reactivation pursuant to rule 657—2.11(147,155A), the board shall provide a fingerprint packet to the applicant, who shall submit to the board the completed fingerprint packet and a signed waiver form to facilitate a national criminal history background check of the applicant. The cost of the evaluation of the fingerprint packet and the Iowa division of criminal investigation and United States Federal Bureau of Investigation criminal history background checks will be assessed to the applicant.

ITEM 2. Amend rule 657—2.9(147,155A) as follows:

657—2.9(147,155A) Licensure by license transfer. An applicant for license transfer must be a pharmacist licensed ~~by examination~~ in a state or territory of the United States, and the license ~~by examination~~ upon which the transfer is based must be in good standing at the time of the application and license transfer. All candidates shall take and pass the MPJE, Iowa Edition, as provided in subrule

2.4(1). Any candidate who fails to pass the examination shall be eligible for reexamination as provided in rule 657—2.7(147).

2.9(1) *Eligibility.* Each applicant for license transfer to this state who obtains the applicant's original license after January 1, 1980, must have passed the NABP Licensure Examination (NABPLEX), the NAPLEX, or an equivalent examination as determined by NABP.

a. ~~*Application*~~ *Applications for license transfer.* Each applicant for license transfer to Iowa shall complete the online application and pay the required fee as determined by NABP at nabp.pharmacy/programs and submit the board's online application and pay the required nonrefundable fee at pharmacy.iowa.gov.

b. No change.

2.9(2) to **2.9(5)** No change.

ITEM 3. Amend rule 657—2.11(147,155A) as follows:

657—2.11(147,155A) License expiration and renewal. A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, with the exception that a new pharmacist license issued between April 1 and June 29 shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the renewal application and payment of a nonrefundable fee of $180.

2.11(1) *Late renewal penalty.* Failure to renew the license before July 1 following expiration shall require payment of the nonrefundable renewal fee and a nonrefundable penalty fee of $180. Failure to renew the license before August 1 following expiration shall require payment of the nonrefundable renewal fee and a nonrefundable penalty fee of $270. Failure to renew the license before September 1 following expiration shall require payment of the nonrefundable renewal fee and a nonrefundable penalty fee of $360. Failure to renew the license before October 1 following expiration may require an appearance before the board and shall require payment of a nonrefundable ~~reactivation~~ renewal fee of $630. The provisions of Iowa Code section 147.11 requiring reactivation shall apply to a license that is not renewed ~~within five months of the expiration date~~ before November 1 following expiration and shall include completion of a criminal history background check pursuant to subrule 2.3(2).

2.11(2) *Delinquent license.* If a license is not renewed before its expiration date, the license is delinquent and the licensee may not practice pharmacy in the state of Iowa until the licensee ~~reactivates~~ renews the delinquent license. ~~Reactivation~~ Renewal of a delinquent license shall include submission of a completed application and appropriate nonrefundable fees and may include requirements relating to the reactivation of an inactive license pursuant to subrule 2.13(2). A pharmacist who continues to practice pharmacy in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.6(22).

ITEM 4. Adopt the following **new** rule 657—2.18(147,155A):

657—2.18(147,155A) Temporary license. Upon submission of the completed applications for licensure by license transfer pursuant to rule 657—2.9(147,155A), all required nonrefundable application fees, the completed fingerprint packet and signed waiver form to facilitate a national criminal history background check pursuant to subrule 2.3(2) and determination that the applicant satisfies all requirements for licensure with the exception of the jurisprudence examination, an applicant for licensure by license transfer may, pursuant to this rule, request a temporary pharmacist license while the applicant completes the MPJE, Iowa Edition, as required in subrule 2.9(3).

2.18(1) *Fee.* The nonrefundable fee for issuance or renewal of a temporary pharmacist license shall be $20.

2.18(2) *Duration.* A temporary pharmacist license issued pursuant to this rule shall be valid for a period of three months. A temporary pharmacist license may be renewed one time for an additional period of three months. In order to qualify for renewal of the temporary license, the pharmacist must request renewal on a form provided by the board and demonstrate at least one attempt to take the MPJE,

Iowa Edition, or demonstrate that the examination could not be scheduled within the initial temporary licensure period. A temporary pharmacist license is limited to one renewal.

2.18(3) *Conversion of license.* Upon successful completion of the MPJE, Iowa Edition, the pharmacist license shall cease to be a temporary license and shall be issued as a permanent pharmacist license subject to an expiration date in accordance with rule 657—2.11(147,155A).

ITEM 5. Adopt the following **new** 657—Chapter 31:

CHAPTER 31
CRIMINAL CONVICTIONS

657—31.1(272C) Purpose and scope. The purpose of this chapter is to establish the process by which an individual's criminal history is utilized by the board in a determination of eligibility for licensure or registration and in licensing and registration decisions. This chapter applies to individuals who are seeking licensure or registration with the board and individuals who are seeking a licensure or registration eligibility determination from the board based on their prior criminal convictions.

657—31.2(272C) Definitions. For the purpose of this chapter, the following definitions shall apply:

"Board" means the Iowa board of pharmacy.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the practice of pharmacy. A conviction is directly related to the duties and responsibilities of the practice of pharmacy if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of pharmacy practice, or (2) the circumstances under which an offense was committed are circumstances customary to licensed pharmacy personnel.

"License" means any license or registration issued by the board to an individual.

657—31.3(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 657—31.4(272C), the applicant's convictions will be reviewed when the board receives a completed license application.

31.3(1) *Disclosure.* An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

31.3(2) *Submission of criminal record and personal statement.* An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of pharmacy in order for the license application to be considered complete.

31.3(3) *Submission of evidence of rehabilitation.* An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

31.3(4) *Board authority.* The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

31.3(5) *Licensure requirements.* An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

31.3(6) *Nonrefundable fees.* Any application fees paid will not be refunded if the license is denied.

657—31.4(272C) Eligibility determination.

31.4(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying

offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

31.4(2) To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

a. A completed petition for eligibility determination form;

b. The complete criminal record for each of the petitioner's convictions;

c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the practice of pharmacy and why the board should find the petitioner rehabilitated;

d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

e. A nonrefundable fee of $25.

657—31.5(272C) Appeal. A petitioner deemed ineligible for licensure or an applicant denied licensure due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in these rules. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

31.5(1) *Presiding officer.* An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

31.5(2) *Closed hearing.* The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

31.5(3) *Burden of proof.* The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the convictions of the petitioner or applicant include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

31.5(4) *Judicial review.* A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

657—31.6(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code sections 272C.1(8) and 272C.15.

ITEM 6. Amend rule 657—33.1(85GA,ch1116) as follows:

657—33.1(~~85GA,ch1116~~ 272C) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

"Military service applicant" means an individual requesting credit toward licensure or registration requirements for education, training, or service obtained or completed in military service.

~~*"Spouse"* means a spouse of an active duty member of the military forces of the United States.~~

"Veteran" means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

ITEM 7. Amend rule 657—33.2(85GA,ch1116), parenthetical implementation, as follows:

657—33.2(~~85GA,ch1116~~ 272C)

ITEM 8. Amend rule 657—33.3(85GA,ch1116) as follows:

657—33.3(~~85GA,ch1116~~ 272C) Veteran ~~or spouse~~ licensure or registration. A veteran ~~or spouse~~ with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license transfer pursuant to rule 657—2.9(147,155A) and this chapter. A veteran ~~or spouse~~ must pass any required examinations to be eligible for pharmacist licensure by license transfer. A veteran ~~or spouse~~ may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran ~~or spouse~~ may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran ~~or spouse~~ may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

33.3(1) No change.

33.3(2) *Application requirements.* Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) ~~or as a spouse of an active duty member of the military forces of the United States~~.

33.3(3) *Equivalency determination.* Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the requirements for licensure or registration of the jurisdiction where the veteran ~~or spouse~~ is licensed or registered are substantially equivalent to the requirements for licensure or registration in Iowa. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

33.3(4) *Licensure or registration approval.* The board shall promptly grant a license or registration, as appropriate, to the veteran ~~or spouse~~ if the applicant is licensed or registered in another jurisdiction whose licensure or registration requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant's disciplinary or criminal background.

33.3(5) *Notification of additional requirements and provisional licensure or registration.* If the board determines that the veteran ~~or spouse~~ is licensed or registered in another jurisdiction whose licensure or registration requirements are not substantially equivalent to those required in Iowa, the board shall promptly inform the applicant of the additional experience, education, or examinations required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. to *d.* No change.

ITEM 9. Amend rule 657—33.4(85GA,ch1116) as follows:

657—33.4(~~85GA,ch1116~~ 272C) Request for contested case. A military service applicant or a veteran or spouse who is aggrieved by the board's decision to deny all or part of the military service credit application, a request for a license transfer, a request for a registration, or a request for provisional license or registration, or is aggrieved by the terms under which a provisional license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision pursuant to 657—subrule 35.30(1). There shall be no fees or costs assessed against the military service applicant~~,~~ or veteran ~~or spouse~~ in connection with a contested case conducted pursuant to this chapter.

PHARMACY BOARD[657](cont'd)

ITEM 10. Amend **657—Chapter 33**, implementation sentence, as follows:

These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, section 34~~ Iowa Code sections 272C.4(11) and 272C.4(12).

ITEM 11. Rescind subrule 36.6(5) and adopt the following **new** subrule in lieu thereof:

36.6(5) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5450C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Barbering hereby proposes to amend Chapter 21, "Licensure," and Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3, 147.10 and 272C.4 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed. It is unknown how many applicants would continue to elect to submit paper applications, which would incur an additional cost to cover processing time, instead of using the online application system without incurring an additional cost.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

PROFESSIONAL LICENSURE DIVISION[645](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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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** subrule 21.5(5):

21.5(5) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 2. Amend subrule 21.9(4) as follows:

21.9(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the

event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 3. Rescind subrule **21.12(5)**.

ITEM 4. Renumber subrules **21.12(6)** to **21.12(8)** as **21.12(5)** to **21.12(7)**.

ITEM 5. Rescind subrule 25.2(11) and adopt the following **new** subrule in lieu thereof:

25.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5442C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Behavioral Science hereby proposes to amend Chapter 31, "Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," and Chapter 33, "Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154D and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10 and 154D.3 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

PROFESSIONAL LICENSURE DIVISION[645](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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID= m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 31.2(1) as follows:

31.2(1) The applicant shall complete ~~a board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Amend paragraph **31.3(6)"a"** as follows:

a. Apply for licensure by creating an account and paying online at ibplicense.iowa.gov ~~or by completing and returning a paper application with a check or money order payable to the Board of Behavioral Science~~.

ITEM 3. Adopt the following **new** subrule 31.8(3):

31.8(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 4. Amend subrule 31.9(1) as follows:

31.9(1) The applicant shall complete ~~a board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All paper applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 5. Amend subrules 31.11(5) and 31.11(6) as follows:

31.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

31.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Rescind subrule 33.2(12) and adopt the following **new** subrule in lieu thereof:

33.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5448C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Chiropractic hereby proposes to amend Chapter 41, "Licensure of Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3, 147.10 and 272C.4 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and 2020 Iowa Acts, House File 2627.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627 by (1) updating the Board's licensure rules to include a reference in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards and update an obsolete cross-reference.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed. It is unknown how many applicants would continue to elect to submit paper applications, which would incur an additional cost to cover processing time, instead of using the online application system without incurring an additional cost.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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** subrule 41.6(3):

41.6(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 2. Amend subrules 41.8(5) to 41.8(7) as follows:

41.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

41.8(6) A person licensed to practice as a chiropractic physician shall keep the license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

41.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in ~~645—subrule 5.4(4)~~ 645—subrule 5.14(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 3. Rescind subrule 45.2(11) and adopt the following **new** subrule in lieu thereof:

45.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5455C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Cosmetology Arts and Sciences hereby proposes to amend Chapter 60, "Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences," Chapter 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," and Chapter 65, "Discipline for Cosmetology Arts and Sciences Licensees, Instructors, Salons, and Schools," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 157 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 157 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards and update obsolete cross-references.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID =m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 **60.2(1)"a"** as follows:

a. Submit a completed~~, board-approved~~ application for licensure ~~online at www.ibplicense.iowa.gov~~. ~~Paper application forms may be obtained from the board's website (www.idph.state.ia.us/licensure) or directly from the board office. Completed paper applications and appropriate fees shall be sent to Board of Cosmetology Arts and Sciences, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrule 60.2(4):

60.2(4) *Licensure by work experience.* An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 3. Amend rule 645—60.4(157) as follows:

645—60.4(157) Practice-specific training requirements. The board shall approve a licensee to provide the appropriate services once a licensee has complied with training requirements and submitted a completed application, the required supporting evidence, and applicable fees as specified in these rules. The applicant shall receive a certification ~~card~~ following board approval.

60.4(1) Microdermabrasion.

a. No change.

b. To be eligible to perform microdermabrasion services, the licensee shall:

(1) and (2) No change.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to ~~645—subrule 62.1(19)~~ 645—subrule 5.5(14). The fee is nonrefundable.

60.4(2) Chemical exfoliation.

a. and *b.* No change.

c. To be eligible to perform chemical peels, a cosmetologist who was licensed prior to July 1, 2005, shall:

(1) and (2) No change.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to ~~645—subrule 62.1(19)~~ 645—subrule 5.5(15). The fee is nonrefundable.

60.4(3) Laser services.

a. to *e.* No change.

f. To be eligible to perform laser services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) and (2) No change.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to ~~645—subrule 62.1(19)~~ 645—subrule 5.5(14). The fee is nonrefundable.

60.4(4) IPL hair removal treatments.

a. to *d.* No change.

e. To be eligible to perform IPL hair removal services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) and (2) No change.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to ~~645—subrule 62.1(19)~~ 645—subrule 5.5(14). The fee is nonrefundable.

60.4(5) to **60.4(7)** No change.

ITEM 4. Adopt the following **new** subrule 60.7(5):

60.7(5) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 5. Amend subrule 60.8(4) as follows:

60.8(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 60.8(5) as follows:

60.8(5) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in ~~645—subrule 62.1(3)~~ 645—subrule 5.5(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 7. Amend subrule 60.17(2) as follows:

60.17(2) Pay the reactivation fee that is due as specified in rule ~~645—62.1(147,157)~~ 645—5.5(147,157).

ITEM 8. Amend subrule 61.2(5) as follows:

61.2(5) A salon license shall be issued for a specific location. A change in location or site of a salon shall require submission of an application for a new license and payment of the fee required by ~~645—subrule 62.1(16)~~ 645—subrule 5.5(11). A change of address without change of actual location shall not be construed as a new site.

ITEM 9. Amend subrule 61.3(5) as follows:

61.3(5) A salon shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the salon shall be ~~sent~~ issued a license renewal ~~card by regular mail~~.

ITEM 10. Amend rule 645—61.5(157) as follows:

645—61.5(157) Display requirements for salons.

61.5(1) Every salon shall have a sign visible outside the entrance designating the place of business.

61.5(2) The most current salon license proof of renewal ~~card~~ shall be posted in the salon front entrance area to provide the public a full, unobstructed view of the license. ~~Photo and electronic copies are not acceptable.~~

61.5(3) The most current license proof of renewal ~~card~~ for each licensee working in the salon shall be posted in the salon front entrance area to provide the public a full, unobstructed view of the license. ~~Photo and electronic copies are not acceptable.~~

61.5(4) If the licensee works in more than one salon, the current proof of renewal ~~card~~ shall be posted in the primary place of practice, and the licensee shall ~~have the current wallet card in the licensee's possession~~ be able to provide the renewal upon request.

61.5(5) Each licensee shall have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

ITEM 11. Amend rule 645—61.6(147) as follows:

645—61.6(147) Duplicate certificate ~~or wallet card~~ for salons.

61.6(1) A duplicate ~~wallet card or duplicate~~ certificate shall be required if the current ~~wallet card or~~ certificate is lost, stolen or destroyed. A duplicate ~~wallet card or duplicate~~ certificate shall only be issued under such circumstances.

61.6(2) A duplicate salon ~~wallet card or~~ certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in ~~645—subrule 62.1(5)~~ 645—subrule 5.5(5).

61.6(3) If the board receives a completed application stating that the owner of the salon has not received the ~~wallet card or~~ certificate within 60 days after the ~~card or~~ certificate is mailed by the board, no fee shall be required for issuing the duplicate ~~wallet card or~~ certificate.

ITEM 12. Amend paragraph **61.8(2)"b"** as follows:

b. Schools shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the school shall be ~~sent~~ issued a license renewal ~~card by regular mail~~.

ITEM 13. Amend rule 645—61.10(157) as follows:

645—61.10(157) Display requirements for schools.

61.10(1) Every school shall have a sign visible outside the entrance designating the place of business.

61.10(2) A school license and the current proof of renewal ~~card~~ shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license. ~~Photocopies and electronic copies are not acceptable.~~

61.10(3) The current license proof of renewal ~~card~~ for each instructor working at the school shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license. ~~Photocopies and electronic copies are not acceptable.~~

ITEM 14. Rescind subrule 65.2(12) and adopt the following **new** subrule in lieu thereof:

65.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5452C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Dietetics hereby proposes to amend Chapter 81, "Licensure of Dietitians," and Chapter 83, "Discipline for Dietitians," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 152A and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 154B and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Sharon Dozier
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: sharon.dozier@idph.iowa.gov

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 81.9(5) as follows:

81.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 2. Amend subrule 81.9(7) as follows:

81.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.6(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 3. Rescind subrule 83.2(12) and adopt the following **new** subrule in lieu thereof:

83.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5449C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Mortuary Science hereby proposes to amend Chapter 101, "Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments," and Chapter 103, "Disciplinary Proceedings," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.10 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3, 147.10 and 272C.4 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed. It is unknown how many applicants would continue to elect to submit paper applications, which would incur an additional cost to cover processing time, instead of using the online application system without incurring an additional cost.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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** subrule 101.6(5):

101.6(5) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 2. Amend subrules 101.7(4) and 101.7(6) as follows:

101.7(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

101.7(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule ~~5.9(3)~~ 5.14(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 3. Rescind subrule 103.3(12) and adopt the following **new** subrule in lieu thereof:

103.3(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly

relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5445C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Hearing Aid Specialists hereby proposes to amend Chapter 121, "Licensure of Hearing Aid Specialists," and Chapter 124, "Discipline for Hearing Aid Specialists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154A and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 154A and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID= m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 121.4(1) as follows:

121.4(1) The applicant shall ~~complete a board-approved~~ submit a completed licensure application ~~packet~~. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to Board of Hearing Aid Specialists, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Renumber subrules **121.4(8)** and **121.4(9)** as **121.4(9)** and **121.4(10)**.

ITEM 3. Adopt the following **new** subrule 121.4(8):

121.4(8) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 4. Adopt the following **new** subrule 121.6(7):

121.6(7) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 5. Amend subrule 121.9(3) as follows:

121.9(3) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.7(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Amend subrule 121.9(5) as follows:

121.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 7. Rescind subrule 124.2(16) and adopt the following **new** subrule in lieu thereof:

124.2(16) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5443C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Massage Therapy hereby proposes to amend Chapter 131, "Licensure of Massage Therapists," and Chapter 134, "Discipline for Massage Therapists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 152C and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 152C and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at this hearing.

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

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** subrule 131.3(3):

131.3(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 2. Amend rule 645—131.6(152C) as follows:

645—131.6(152C) Licensure by endorsement.

131.6(1) An applicant who has been a licensed massage therapist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

~~1.~~ *a.* Submits to the board a completed application;

~~2.~~ *b.* Pays the licensure fee;

~~3.~~ *c.* Shows evidence of licensure requirements that are similar to those required in Iowa;

~~4.~~ *d.* Provides official copies of the academic transcripts sent directly from the school to the board;

~~5.~~ *e.* Provides proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination. Proof of passing shall be sent directly from the testing service to the board of massage therapy. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered; and

~~6.~~ *f.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

~~1.~~ (1) Licensee's name;

~~2.~~ (2) Date of initial licensure;

~~3.~~ (3) Current licensure status; and

~~4.~~ (4) Any disciplinary action taken against the license.

131.6(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 131.8(5) as follows:

131.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 131.8(7) as follows:

131.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.8(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 134.2(11) and adopt the following **new** subrule in lieu thereof:

134.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5453C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Nursing Home Administrators hereby proposes to amend Chapter 141, "Licensure of Nursing Home Administrators," and Chapter 144, "Discipline for Nursing Home Administrators," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 155 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 155 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards and update an obsolete cross-reference.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Sharon Dozier
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: sharon.dozier@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID =m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 645—141.2(155) as follows:

645—141.2(155) Requirements for licensure. The following criteria shall apply to licensure:

1. An applicant shall ~~complete~~ submit a ~~board-approved~~ completed licensure application ~~packet~~. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to the Board of Nursing Home Administrators, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075;~~

2. to 9. No change.

ITEM 2. Amend rule 645—141.7(155) as follows:

645—141.7(155) Licensure by endorsement.

141.7(1) An applicant who has been a licensed nursing home administrator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

~~1.~~ *a.* Submits to the board a completed application;

~~2.~~ *b.* Pays the licensure fee;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~3.~~ *c.* Provides evidence of a minimum of a bachelor's degree from a college or university accredited by the United States Department of Education. An official copy of the academic transcript denoting date of graduation and the degree conferred shall be sent directly from the school to the board office;

~~4.~~ *d.* Provides evidence of an active license as a nursing home administrator for at least two years just prior to application, or meets the qualifications outlined in rule 645—141.4(155);

~~5.~~ *e.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

~~a.~~ (1) Licensee's name;

~~b.~~ (2) Date of initial licensure;

~~c.~~ (3) Current licensure status; and

~~d.~~ (4) Any disciplinary action taken against the license; and

f. ~~6.~~ Provides one of the following:

~~a.~~ (1) The official NAB examination score sent directly from NAB to the board or from the in which the applicant was first licensed; or

~~b.~~ (2) Evidence of certification as a nursing home administrator (CNHA) in good standing with the American College of Health Care Administrators.

141.7(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 141.9(4) as follows:

141.9(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 141.9(5) as follows:

141.9(5) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in ~~645—subrule 145.1(3)~~ 645—subrule 5.12(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 144.2(13) and adopt the following **new** subrule in lieu thereof:

144.2(13) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5458C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Optometry hereby proposes to amend Chapter 180, "Licensure of Optometrists," and Chapter 183, "Discipline for Optometrists," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 154 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Sharon Dozier
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: sharon.dozier@idph.iowa.gov

Public Hearing

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 **180.2(1)"a"** as follows:

a. An applicant shall complete ~~a board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Optometry, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrule 180.3(9):

180.3(9) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 180.5(5) as follows:

180.5(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 180.5(6) as follows:

180.5(6) A person licensed to practice optometry shall keep the license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 5. Amend subrule 180.5(7) as follows:

180.5(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.12(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Rescind subrule 183.2(11) and adopt the following **new** subrule in lieu thereof:

183.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly

relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5456C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Physical and Occupational Therapy hereby proposes to amend Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," and Chapter 209, "Discipline for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapters 147, 148A and 148B and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapters 147, 148 and 148B and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 200.2(1) as follows:

200.2(1) The applicant shall complete ~~a board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrule 200.7(6):

200.7(6) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 200.9(5) as follows:

200.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the

event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 200.9(7) as follows:

200.9(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 202.2(11) and adopt the following **new** subrule in lieu thereof:

202.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ITEM 6. Amend subrule 206.2(1) as follows:

206.2(1) The applicant shall complete ~~a board-approved~~ an application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 7. Amend rule 645—206.9(147) as follows:

645—206.9(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. to 6. No change.

7. Shows evidence of one of the following:

- Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
- The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
- Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
- Successfully passing the examination within a period of two years from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 8. Amend subrule 206.10(5) as follows:

206.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 9. Amend subrule 206.10(7) as follows:

206.10(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee

as specified in 645—subrule 5.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 10. Rescind subrule 209.2(11) and adopt the following **new** subrule in lieu thereof:

209.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5444C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Podiatry hereby proposes to amend Chapter 220, "Licensure of Podiatrists," Chapter 221, "Licensure of Orthotists, Prosthetists, and Pedorthists," and Chapter 224, "Discipline for Podiatrists, Orthotists, Prosthetists, and Pedorthists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapters 148F and 149 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10 and 148F.3 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

PROFESSIONAL LICENSURE DIVISION[645](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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 220.2(1) as follows:

220.2(1) An applicant shall complete ~~a board-approved~~ an application ~~packet~~. ~~Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Podiatry, Bureau of Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Adopt the following **new** subrule 220.7(5):

220.7(5) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 220.9(5) as follows:

220.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 220.9(6) as follows:

220.9(6) A person licensed to practice podiatry shall keep the license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 5. Amend subrule 220.9(7) as follows:

220.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.15(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Amend subrule 221.3(1) as follows:

221.3(1) An applicant shall complete ~~a board-approved~~ an application ~~packet~~. ~~Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Podiatry, Bureau of Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 7. Adopt the following **new** subrule 221.5(3):

221.5(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 8. Adopt the following **new** subrule 221.6(3):

221.6(3) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 9. Amend subrules 221.7(4) to 221.7(6) as follows:

221.7(4) Upon receipt of the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

221.7(5) A person licensed to practice orthotics, prosthetics, or pedorthics shall keep the license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

221.7(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.15(7). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 10. Rescind subrule 224.2(12) and adopt the following **new** subrule in lieu thereof:

224.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense

are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5451C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Psychology hereby proposes to amend Chapter 240, "Licensure of Psychologists," and Chapter 242, "Discipline for Psychologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154B and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10B and chapter 154B and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards. The proposed amendments include a requirement that licensed psychologists countersign all clinical records of unlicensed persons under their supervision in a practice setting.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Sharon Dozier
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: sharon.dozier@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 645—240.9(154B) as follows:

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. to 12. No change.

13. Countersign all written reports, clinical records and communications as "Reviewed and Approved" by the supervising psychologist.

ITEM 2. Rescind subrule 240.10(4) and adopt the following **new** subrule in lieu thereof:

240.10(4) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 240.13(5) as follows:

240.13(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 240.13(6) as follows:

240.13(6) A person licensed to practice as a psychologist shall keep the person's license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 5. Amend subrule 240.13(7), introductory paragraph, as follows:

240.13(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

ITEM 6. Rescind subrule 242.2(12) and adopt the following **new** subrule in lieu thereof:

242.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5446C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 261, "Licensure of Respiratory Care Practitioners, Polysomnographic Technologists, and Respiratory Care and Polysomnography Practitioners," and Chapter 263, "Discipline for Respiratory Care Practitioners and Polysomnographic Technologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 148G.5 and 152B.6 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10, 148G.5 and 152B.6 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

PROFESSIONAL LICENSURE DIVISION[645](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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 **261.2(1)"a"** as follows:

a. The applicant shall complete ~~a board-approved~~ an application ~~packet~~. ~~Application forms may be obtained from the board's website (idph.iowa.gov/Licensing) or directly from the board office or may be submitted electronically at IBPLicense.iowa.gov. Paper applications shall be sent to Board of Respiratory Care and Polysomnography, Professional Licensure Division, Fifth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrules 261.4(7) and 261.4(8):

261.4(7) Licensure by proof of work experience. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

261.4(8) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 261.8(6) as follows:

261.8(6) A person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner shall keep the person's license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 4. Amend subrule 261.8(7) as follows:

261.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in rule 645—5.17(147,152B). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 263.2(11) and adopt the following **new** subrule in lieu thereof:

263.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5447C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Social Work hereby proposes to amend Chapter 280, "Licensure of Social Workers," and Chapter 283, "Discipline for Social Workers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 154C.4 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10 and 154C.3 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards and update an obsolete cross-reference.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 280.3(1) as follows:

280.3(1) The applicant shall ~~complete a board-approved~~ submit a completed licensure application. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Amend subrule 280.3(9) as follows:

280.3(9) Notification of licensure shall be sent to the licensee ~~by regular mail~~.

ITEM 3. Amend rule 645—280.7(154C) as follows:

645—280.7(154C) Licensure by endorsement.

280.7(1) An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

~~1.~~ *a.* Submits to the board a completed application;

~~2.~~ *b.* Pays the licensure fee;

~~3.~~ *c.* Shows evidence of licensure requirements that are similar to those required in Iowa;

~~4.~~ *d.* Provides official copies of the academic transcripts;

~~5.~~ *e.* Provides official copies of the appropriate or higher level examination score sent directly from the ASWB; and

~~6.~~ *f.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

~~•~~ (1) Licensee's name;

~~•~~ (2) Date of initial licensure;

~~•~~ (3) Current licensure status; and

~~•~~ (4) Any disciplinary action taken against the license.

280.7(2) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

In lieu of the requirements in ~~numbered paragraphs "4," "5," and "6" of this rule,~~ paragraphs 280.7(1)*"d," "e,"*and *"f,"* the board will accept the ASWB Social Work Registry verification of academic transcripts, examination scores, and licensure in other states.

ITEM 4. Amend subrule 280.9(6) as follows:

280.9(6) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 5. Amend subrule 280.14(2) as follows:

280.14(2) Pay the reactivation fee that is due as specified in ~~645—Chapter 284~~ 645—subrule 5.19(4).

ITEM 6. Rescind subrule 283.2(11) and adopt the following **new** subrule in lieu thereof:

283.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of

the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5457C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Speech Pathology and Audiology hereby proposes to amend Chapter 300, "Licensure of Speech Pathologists and Audiologists," and Chapter 304, "Discipline for Speech Pathologists and Audiologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154F and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 154F and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 300.3(1) as follows:

300.3(1) The applicant shall ~~complete~~ submit a ~~board-approved~~ completed licensure application ~~packet~~. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to Board of Speech Pathology and Audiology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrule 300.3(7):

300.3(7) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 3. Amend subrule 300.9(2), introductory paragraph, as follows:

300.9(2) The applicant shall ~~complete~~ submit a ~~board-approved~~ completed licensure application ~~packet~~. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to Board of Speech Pathology and Audiology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~ Each application shall be submitted with the following:

ITEM 4. Adopt the following **new** subrule 300.9(3):

300.9(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 5. Amend subrule 300.11(5) as follows:

300.11(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 300.11(6) as follows:

300.11(6) A person licensed to practice as a speech pathologist or audiologist shall keep the person's license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 7. Amend subrule 300.11(7) as follows:

300.11(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.20(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 8. Rescind subrule 304.2(11) and adopt the following **new** subrule in lieu thereof:

304.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5461C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Athletic Trainers hereby proposes to amend Chapter 351, "Licensure of Athletic Trainers," and Chapter 353, "Discipline for Athletic Trainers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 152D and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 152D and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

There is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 subrule 351.2(1) as follows:

351.2(1) The applicant shall ~~complete~~ submit a ~~board-approved~~ completed licensure application ~~packet~~. ~~Application forms may be obtained from the board's website (idph.iowa.gov/Licensure/Iowa-Board-of-Athletic-Training) or directly from the board office. All applications shall be sent to Board of Athletic Training, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrule 351.3(3):

351.3(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 3. Amend rule 645—351.7(152D) as follows:

645—351.7(152D) Licensure by endorsement.

351.7(1) An applicant who has been a licensed athletic trainer under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

~~1.~~ *a.* Submits to the board a completed application;

~~2.~~ *b.* Pays the licensure fee;

~~3.~~ *c.* Has the academic transcript(s) sent directly from the school(s) to the board;

~~4.~~ *d.* Shows evidence of licensure requirements that are similar to those required in Iowa;

~~5.~~ *e.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

~~●.~~ (1) Licensee's name;

~~●.~~ (2) Date of initial licensure;

~~●.~~ (3) Current licensure status; and

~~●.~~ (4) Any disciplinary actions taken against the license.

~~6.~~ *f.* Submits evidence:

~~●.~~ (1) From BOC of current certification status sent directly from BOC to the board, or

~~●.~~ (2) Of a passing score on the examination of the BOC sent directly from BOC to the board.

351.7(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 4. Amend subrule 351.9(5) as follows:

351.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 5. Amend subrule 351.9(6) as follows:

351.9(6) A person licensed to practice as an athletic trainer shall keep the license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 6. Amend subrule 351.9(7) as follows:

351.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in

645—subrule 5.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 7. Rescind subrule 353.2(12) and adopt the following **new** subrule in lieu thereof:

353.2(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5459C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Sign Language Interpreters and Transliterators hereby proposes to amend Chapter 361, "Licensure of Sign Language Interpreters and Transliterators," and Chapter 363, "Discipline for Sign Language Interpreters and Transliterators," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 154E and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and chapter 154E and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board's licensure rules to include references to two rules in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board's rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

PROFESSIONAL LICENSURE DIVISION[645](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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Sharon Dozier
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: sharon.dozier@idph.iowa.gov

Public Hearing

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

March 16, 2021 9 to 10 a.m.	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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** subrule 361.2(4):

361.2(4) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

ITEM 2. Amend rule 645—361.4(154E) as follows:

645—361.4(154E) Licensure by endorsement.

361.4(1) An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

~~1.~~ *a.* Submits to the board a completed application;

~~2.~~ *b.* Pays the licensure fee;

~~3.~~ *c.* Shows evidence of licensure requirements that are similar to those required in Iowa;

~~4.~~ *d.* Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;

~~5.~~ *e.* Provides:

~~•~~ (1) Examination scores which shall be sent directly from the examination service to the board; or

~~•~~ (2) A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 645—361.2(154E); and

~~6.~~ *f.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:

~~•~~ (1) The licensee's name;

~~•~~ (2) The date of initial licensure;

~~•~~ (3) Current licensure status; and

~~•~~ (4) Any disciplinary action taken against the license.

361.4(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 361.5(4) as follows:

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 4. Amend subrule 361.5(5) as follows:

361.5(5) A person licensed to practice as a sign language interpreter or transliterator shall keep the person's license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 5. Amend subrule 361.5(6) as follows:

361.5(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Rescind subrule 363.2(11) and adopt the following **new** subrule in lieu thereof:

363.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5478C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to the state plumbing code and providing an opportunity for public comment

The Plumbing and Mechanical Systems Board hereby proposes to amend Chapter 25, "State Plumbing Code," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 105.4.

Purpose and Summary

The proposed amendments include the adoption by reference of the Uniform Plumbing Code (UPC), 2021 Edition. The Board previously adopted the 2018 edition of the UPC. The Board is required by law to adopt the most recent version of the UPC.

Notable changes in the most recent version include a new Appendix N titled "Impact of Water Temperature on the Potential for Scalding and Legionella Growth," new provisions for backflow prevention devices, new provisions for temperature-limiting devices, new guards and rails requirements for installation of equipment and appliances on roofs, new requirements for the discharge of temperature and pressure relief valve piping, a new provision on leak detection devices, new provisions for potable water pumps, new standards for drain waste and vent pipe and fittings, new provisions for drain waste and vent cleanouts, updated and expanded circuit vent provisions, updated fuel gas provisions, and updated medical gas provisions.

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 Board for a waiver of the discretionary provisions, if any, pursuant to the Board's general waiver provisions contained in 641—Chapter 31.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Kane Young
Plumbing and Mechanical Systems Board
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kane.young@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.

PUBLIC HEALTH DEPARTMENT[641](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 actions are proposed:

ITEM 1. Amend rules 641—25.1(105) to 641—25.3(105) as follows:

641—25.1(105) Adoption. Sections 101 and 102 and Chapters 2 to 17 of the Uniform Plumbing Code, ~~2018~~ 2021 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4. Portions of this chapter reproduce excerpts from the ~~2018~~ 2021 International Plumbing Code; Copyright ~~2017~~ 2020; Washington, D.C.: International Code Council. Such excerpts are reproduced with permission, all rights reserved. www.ICCSAFE.org

641—25.2(105) Applicability. The provisions of ~~this code~~ the Uniform Plumbing Code, as adopted and amended by this chapter, are applicable to the plumbing in buildings or on premises in Iowa. Local jurisdictions may not adopt other plumbing codes. Local jurisdictions may adopt additional amendments provided they are stricter than the Uniform Plumbing Code as amended by this chapter. Copies of any local amendments shall be provided to the board.

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, ~~2018~~ 2021 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

ITEM 2. Amend subrules 25.4(2) to 25.4(5) as follows:

25.4(2) The following amendments shall apply to UPC Chapter 3:

a. No change.

b. Section 309.6 Dead Legs. Modify the section by adding the following sentence to the end of the section: "The authority having jurisdiction can determine the method of flushing."

~~*b.*~~ *c.* Subsection 314.4.1 Installation of Thermoplastic Pipe and Fittings. Trench width for thermoplastic pipe shall be limited to six times the outside diameter of the piping at the base. Thermoplastic piping shall be bedded in not less than 4 inches (102 mm) of aggregate bedding material supporting the pipe. Initial backfill shall encompass the pipe. Aggregate material shall be three-eighths (3/8) inch p-gravel or 1-inch clean class one bedding.

25.4(3) The following amendments shall apply to UPC Chapter 4:

a. and *b.* No change.

c. ~~Section 408.4 Waste Outlet. Modify the section by adding the following exception to the end of the section: "Exception: In a residential dwelling unit where a 2-inch waste pipe is not readily available and approval of the Authority Having Jurisdiction has been granted, the waste outlet, fixture tailpiece, trap and trap arm may be 1½ inches when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed."~~ Section 408.3.2 Temperature Limiting.

(1) Modify this section by adding the following to the end of (3): "and installed at or as close as possible to the point of use."

(2) Modify this section by adding the following to the end of (5): "may be used downstream of other allowed device. TAFR valves are not intended to be installed in place of devices complying with ASSE 1016, ASSE 1017, ASSE 1066, ASSE 1069, or ASSE 1070."

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. Section 408.11 Showers. Create a new Section 408.11 stating: "Limitation of Hot Water Temperature of Hair Shampoo Bowls and Pet Grooming Stations. The maximum hot water temperature discharging from hair shampoo bowls and pet grooming stations shall be limited to 120ºF (49ºC). The maximum temperature shall be regulated by one of the following means, which shall be installed at or as close as possible to the point of use:

"(1) A limiting device conforming to ASSE 1070, ASME A112.1070, CSA B125.70, or CSA B125.3.

"(2) A water heater conforming to ASSE 1084."

~~*d.*~~ *e.* Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Modify the section by adding the following sentence to the end of the section: "These devices shall be installed at or as close as possible to the point of use."

~~*e.*~~ *f.* Section 410.3 Limitation of Water Temperature in Bidets. Modify the section by adding the following sentence to the end of the section: "These devices shall be installed at or as close as possible to the point of use."

~~*f.*~~ *g.* Section 416.5 Drain. Modify the section by deleting the last sentence, which states: "Where a drain is provided, the discharge shall be in accordance with Section 811.0."

~~*g.*~~ *h.* Section 418.3 Location of Floor Drains. Modify the section by adding the following to the end of the section: "(5) Rooms equipped with a water heater."

~~*h.*~~ *i.* Section 422.1 Fixture Count.

(1) Modify the section by deleting the first paragraph and inserting the following in lieu thereof: "Plumbing fixtures shall be provided in each building for the type of building occupancy and in the minimum number shown in Table 403.1 of the International Plumbing Code, reprinted here as Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with ~~Section 1004 of the 2015 International Building Code~~ the state building code or the authority having jurisdiction. Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility."

(2) The minimum number of fixtures shall be calculated at 50 percent male and 50 percent female based on the total occupant load. Where information submitted indicates a difference in the distribution of the sexes, such information shall be used to determine the number of fixtures for each sex. Once the occupancy load and occupancy are determined, Table 422.1 shall be applied to determine the minimum number of plumbing fixtures required. When gender-neutral restrooms are provided, the total number of fixtures provided must be the sum of men's and women's fixtures as figured, and urinals in gender-neutral restrooms shall not be substituted for more than 67 percent of men's water closets in assembly and educational occupancies or 50 percent of men's water closets in all other occupancies. Where gender-neutral fixtures are provided in addition to separate men's and women's facilities, those gender-neutral fixtures shall be included in determining the number of fixtures provided in an occupancy. Where applying the fixture ratios in Table 422.1 results in fractional numbers, such numbers shall be rounded to the next whole number. For multiple occupancies, fractional numbers shall be first summed and then rounded to the next whole number.

~~*i.*~~ *j.* Subsection 422.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Modify the subsection by adding the following sentence to the end of the subsection: "Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies."

~~*j.*~~ *k.* Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof. ~~Exception: Projects under the jurisdiction of the state building code may use fixture counts from the 2015 International Building Code.~~

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures[d]	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes[d]	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts[d]	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		Gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750		—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums[d]	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Passenger terminals and transportation facilities[d]	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
		Places of worship and other religious services[d]	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly (cont'd)	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities[f]	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink[e]
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
5	Institutional	Custodial care facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes	1 per room[c]		1 per room[c]		1 per 15	1 per 100	1 service sink per floor
		Employees in hospitals and nursing homes[b]	1 per 25		1 per 35		—	1 per 100	—
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 500	—
		Prisons[b]	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
		Reformatories, detention centers, and correctional centers[b]	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers[b]	1 per 25		1 per 35		—	1 per 100	—
		Adult day care and child day care	1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink[e]

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
7	Residential	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES[a]
(See Sections 403.1.1 and 403.2)
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
7	Residential (cont'd)	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouse and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		—	1 per 1,000	1 service sink

[a] The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.

[b] Toilet facilities for employees shall be separate from facilities for inmates or care recipients.

[c] A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted provided that each patient sleeping unit has direct access to the toilet room and provision for privacy for the toilet room user is provided.

[d] The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

[e] For business and mercantile classifications with an occupant load of 15 or fewer, service sinks shall not be required.

~~[f] The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Section 609 of the International Swimming Pool and Spa Code.~~

*Excerpted (with modifications) from Table 403.1 of the 2018 International Plumbing Code; Copyright 2017; Washington, D.C.: International Code Council. Reproduced with permission. All rights reserved. www.ICCSAFE.org

l. Section 422.2 Separate Facilities. Modify this section by adding an additional exception: "(4) Separate facilities shall not be required where rooms having both water closets and lavatory fixtures are designed for use by any gender and sufficient privacy for water closets is installed. Partitions or compartment walls shall extend from no more than 1 inch from the floor to no less than 84 inches from the floor. Urinals shall be located in an area visually separated from the remainder of the facility or each urinal that is provided shall be located in a stall."

~~*k.*~~ *m.* Subsection 422.2.2 Family or Assisted-Use Toilet ~~and Bathing~~ Facilities. Modify the subsection by adding the following sentence to the end of the subsection: "Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies."

~~*l.*~~ *n.* Insert the following text at the end of Chapter 4:

"422.6 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies. (Reprinted from the 2018 International Plumbing Code section 424.2)"

25.4(4) The following amendments shall apply to UPC Chapter 6:

a. and *b.* No change.

c. Section ~~609.11~~ 609.12 Pipe Insulation. Delete ~~sections~~ Sections 609.11 through 609.11.2 and insert the following in lieu thereof:

Section ~~609.11~~ 609.12 Pipe Insulation. Insulation of domestic hot water piping shall be in accordance with the applicable energy conservation code.

d. and *e.* No change.

25.4(5) The following amendments shall apply to UPC Chapter 7:

a. Section 702.1 Trap Size. Table 702.1 Note 9. Modify this note by deleting "a maximum shower size of 36 inches (914 mm) in width and 60 inches (1524 mm) in length" and inserting the following in lieu thereof: "showers having only one shower head rated at a maximum of 2.5 gpm."

~~*a.*~~ *b.* Section 710.1 Backflow Protection. Modify the section by adding the following sentences to the end of the section: "The requirement for the installation of a backwater valve shall apply only when determined necessary by the Authority Having Jurisdiction based on local conditions. When a valve is required by the Authority Having Jurisdiction, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required."

~~*b.* Section 717.1 General. Modify the section by adding the following language to the end of the section: "No building sewer shall be smaller than 4 inches in diameter."~~

ITEM 3. Amend subrule 25.4(8) as follows:

25.4(8) The following amendments shall apply to UPC Chapter 10:

a. No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Section 1007.1 Trap Seal Protection. General. Modify this section by deleting "not deemed necessary for safety or sanitation by the Authority Having Jurisdiction" and inserting the following in lieu thereof: "floor drains or similar traps that receive a liquid discharge year round."

~~*b.*~~ *c.* Section 1014.1.3 Food Waste Disposers and Dishwashers. Modify the section by deleting the second sentence and inserting the following in lieu thereof: "Commercial food waste disposers shall discharge into the building's drainage system in accordance with the requirements of the Authority Having Jurisdiction."

ITEM 4. Amend paragraph **25.4(9)"c"** as follows:

c. Subsection ~~1208.6.4.4~~ 1208.6.4.5 Corrugated Stainless Steel Tubing. Delete subsection ~~1208.6.4.4~~ 1208.6.4.5 and insert the following in lieu thereof:

Subsection ~~1208.6.4.4~~ 1208.6.4.5 Corrugated Stainless Steel Tubing. Only CSST with an arc-resistant jacket or covering system listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed, in accordance with the terms of its approval, the conditions of listing, the manufacturer's instructions and this code, including electrical bonding requirements in Section 1211.2. CSST shall not be used for through-wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.

ITEM 5. Adopt the following **new** paragraph **25.4(9)"d"**:

d. Section 1211.3 Arc-Resistant Jacketed CSST. Delete the section.

ITEM 6. Amend rule 641—25.5(105), introductory paragraph, as follows:

641—25.5(105) Backflow prevention with containment. Cities with populations of 15,000 or greater as determined by the 2010 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, ~~2018~~ 2021 Edition.

ITEM 7. Amend subrule 25.5(1), introductory paragraph, as follows:

25.5(1) *Definitions.* The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, ~~2018~~ 2021 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

ITEM 8. Amend **641—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 105 ~~as amended by 2013 Iowa Acts, Senate File 427~~.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to licensure and providing an opportunity for public comment

The Plumbing and Mechanical Systems Board hereby proposes to amend Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," Chapter 29, "Plumbing and Mechanical Systems Board—Application, Licensure, and Examination," Chapter 32, "Plumbing and Mechanical Systems Board—Licensee Discipline," Chapter 35, "Plumbing and Mechanical Systems Board—Licensure of Nonresident Applicant—Reciprocity," Chapter 57, "Plumbing and Mechanical Systems Board—Declaratory Orders," and Chapter 62, "Plumbing and Mechanical Systems Board—Military Service and Veteran Reciprocity," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 105, and 272C and 2020 Iowa Acts, House File 2627.

Purpose and Summary

These proposed amendments largely reflect changes across several chapters of the Iowa Administrative Code that are necessary to comply with and implement 2020 Iowa Acts, House File 2627.

2020 Iowa Acts, House File 2627, established guidelines for considering and reviewing the criminal history of license applicants or prospective applicants, including a process by which any applicant may petition the Board to determine whether having a criminal history would disqualify the applicant from receiving a license. The proposed amendments to Chapters 28, 29, 32, and 57 explain the "eligibility determination" process and incorporate other legislative guidelines for considering and reviewing criminal history in the course of deciding whether to issue a license or whether to impose discipline on an existing licensee.

2020 Iowa Acts, House File 2627, also established alternative pathways to Iowa licensure for: (1) military spouses, (2) newly established Iowa residents who possess a license or certification from another jurisdiction, and (3) newly established Iowa residents whose practice in the profession in another jurisdiction did not require a license. The proposed amendments to Chapters 28, 35, and 62 add structure and detail to those alternative pathways.

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 Board for a waiver of the discretionary provisions, if any, pursuant to the Board's waiver provisions contained in 641—Chapter 31.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Kane Young
Plumbing and Mechanical Systems Board
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kane.young@idph.iowa.gov

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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 subrule 28.1(2) as follows:

28.1(2) Fees for three-year reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 are as follows:

a. An apprentice license as defined in 641—subrule 29.2(1) is $50.

b. A journey license as defined in 641—subrule 29.2(2) is $180.

c. A master license as defined in 641—subrule 29.2(3) is $240.

d. Fees for all reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 issued for a period of less than three years shall be prorated using a one-sixth deduction for each six-month period.

ITEM 2. Rescind paragraph **28.1(3)"h."**

ITEM 3. Adopt the following **new** subrule 28.1(13):

28.1(13) The fee for submitting a petition for eligibility determination as defined in 641—subrule 29.13(2) is $25.

ITEM 4. Adopt the following **new** rule 641—28.3(105):

641—28.3(105) Waiver of fees. The board shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

ITEM 5. Amend **641—Chapter 28**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 105.9 ~~as amended by 2013 Iowa Acts, Senate File 427~~ and 272C.15.

ITEM 6. Adopt the following **new** definitions of "Complete criminal record," "Conviction," "Directly relates," "Disqualifying conviction" and "Eligibility determination" in rule **641—29.1(105)**:

"Complete criminal record" means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Directly relates" or *"directly related"* means either that the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession; or that the circumstances under which an offense was committed are customary to the profession.

"Disqualifying conviction" or *"disqualifying offense"* means a conviction directly related to the practice of the profession.

"Eligibility determination" means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person's convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

ITEM 7. Amend subparagraph **29.2(4)"a"(3)** as follows:

(3) Effective July 1, 2017, contractor licensure under Iowa Code chapter 105 ~~as amended by 2013 Iowa Acts, Senate File 427,~~ shall constitute registration as a contractor under Iowa Code chapter 91C.

ITEM 8. Amend paragraph **29.5(4)"c"** as follows:

c. Documentation of ~~criminal convictions related to the practice of the profession, which shall include a full explanation from~~ the ~~applicant~~ applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession. No application shall be considered complete unless and until the ~~licensee~~ applicant responds to board requests for additional information regarding ~~applicant~~ the applicant's complete criminal ~~convictions~~ record.

ITEM 9. Amend subrule 29.11(1) as follows:

29.11(1) Upon receipt of a completed application, the board executive officer or designee has discretion to:

a. Authorize the issuance of the license, certification, or examination application.

b. Refer the application to a committee of the board for review and consideration when the board executive officer determines that matters ~~including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience,~~ raised in or revealed by the application are relevant in determining the applicant's qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

(1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 641—29.13(105).

(2) Chemical dependence.

(3) Competency.

(4) Physical or psychological illness or disability.

(5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.

(6) Professional disciplinary history.

(7) Education or experience.

ITEM 10. Adopt the following **new** rule 641—29.13(105):

641—29.13(105) Use of criminal convictions in eligibility determinations and initial licensing decisions.

29.13(1) *License application.* Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

a. *Full disclosure required.* An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. *Documentation and personal statement.* An applicant with one or more convictions must submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

c. *Rehabilitation.* An applicant must as part of the license application submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant

with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

d. *Nonrefundable fees.* Any application fees will not be refunded if the license is denied.

29.13(2) *Eligibility determination.* An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with a conviction is not required to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner must submit all of the following:

a. A completed eligibility determination form, which is available on the board's website;

b. The complete criminal record for each of the petitioner's convictions;

c. A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner is rehabilitated;

d. All evidence of rehabilitation that the petitioner wants the board to consider; and

e. Payment of a nonrefundable fee in the amount of $25.

29.13(3) *Appeal.* A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing nondisciplinary contested case proceedings apply unless otherwise specified in this rule. If the petitioner fails to timely appeal, the board's written decision will become a final order.

a. *Presiding officer.* The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 641—33.10(17A), requesting that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case proceeding under this rule must possess a juris doctorate degree. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

b. *Burden.* The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

c. *Judicial review.* A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

29.13(4) *Future petitions or applications.* If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

ITEM 11. Amend **641—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20, 105.22, ~~and~~ 272C.3 ~~and 2013 Iowa Acts, Senate File 427~~, and 272C.15.

ITEM 12. Adopt the following **new** definitions of "Conviction," "Directly relates" and "Disqualifying conviction" in rule **641—32.1(105,272C)**:

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Directly relates" or *"directly related"* means either that the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession; or that the circumstances under which an offense was committed are customary to the profession.

"Disqualifying conviction" or *"disqualifying offense"* means a conviction directly related to the practice of the profession.

ITEM 13. Amend subrule 32.2(5) as follows:

32.2(5) Conviction of a ~~felony listed in Iowa Code section 105.22(4)~~ disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the ~~record~~ final order or judgment or conviction or plea of guilty ~~shall be~~ in this state or another state, territory, or country constitutes conclusive evidence of ~~such~~ the conviction.

ITEM 14. Amend **641—Chapter 35**, title, as follows:

PLUMBING AND MECHANICAL SYSTEMS BOARD—ALTERNATIVE LICENSURE ~~OF NONRESIDENT APPLICANT—RECIPROCITY~~ PATHWAYS

ITEM 15. Adopt the following **new** definitions of "Full time," "Issuing jurisdiction" and "Transferring jurisdiction" in rule **641—35.1(105)**:

"Full time" means a minimum of 1,700 hours of work in a one-year period.

"Issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

"Transferring jurisdiction" means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

ITEM 16. Amend subrule 35.2(2) as follows:

35.2(2) The board shall not enter into a reciprocity agreement with another state unless the other state grants the same reciprocity licensing privileges to residents of Iowa who have obtained Iowa plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic licenses under Iowa Code chapter 105 ~~as amended by 2013 Iowa Acts, Senate File 427~~.

ITEM 17. Amend rule **641—35.3(105)**, catchwords, as follows:

641—35.3(105) ~~Application~~ Licensure by reciprocity.

ITEM 18. Amend subrule 35.3(1) as follows:

35.3(1) ~~*Registration*~~ *Reciprocity requirements.* The board may issue a reciprocal license if all of the following criteria are met:

a. The applicant is a nonresident of Iowa;

b. The applicant possesses a valid plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license ~~issued~~ from ~~a state~~ an issuing jurisdiction with which the board has entered into a reciprocity agreement;

c. The applicant has paid the appropriate fee or fees required in 641—Chapter 28;

d. The applicant meets the minimum qualifications for licensure set forth in rule 641—29.4(105); and

e. The applicant agrees to comply with all provisions of Iowa law and applicable administrative rules.

ITEM 19. Adopt the following **new** rules 641—35.4(105) and 641—35.5(105):

641—35.4(105) Licensure by verification. Licensure by verification is available under the following circumstances.

35.4(1) *Eligibility.* A person may seek licensure by verification if all of the following criteria are satisfied:

a. The person is licensed, certified, or registered in at least one other issuing jurisdiction;

b. The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year;

c. The scope of practice in the transferring jurisdiction is substantially similar to the scope of practice in Iowa;

d. The person's license, certification, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration; and

e. The person either:

(1) Establishes residency in the state of Iowa; or

(2) Is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station.

35.4(2) *Board application.* The applicant must submit all of the following:

a. A completed application for licensure by verification.

b. Payment of the appropriate fee or fees required by 641—Chapter 28.

c. A verification form completed by the transferring jurisdiction, verifying that the applicant's license, certificate, or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the transferring jurisdiction to the board.

d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency may include:

(1) A residential mortgage, lease, or rental agreement;

(2) A utility bill;

(3) A bank statement;

(4) A paycheck or pay stub;

(5) A property tax statement;

(6) A document issued by the federal or state government; or

(7) Any other board-approved document that reliably confirms Iowa residency.

e. Proof of passing the applicable Iowa licensing examination.

f. Documentation of the applicant's complete criminal record in accordance with 641—paragraph 29.5(4)*"c,"* including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession.

g. Copies of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

35.4(3) *Applicants with prior discipline.* If another issuing jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

35.4(4) *Applicants with pending licensing complaints or investigations.* If an Iowa applicant is concurrently subject to a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another issuing jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

35.4(5) *Temporary licenses.* Applicants who satisfy all requirements for a license by verification under this rule, except for passing the applicable Iowa licensing examination, may be issued a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months. The applicant must submit proof of passing the applicable Iowa licensing examination before the temporary license expires.

641—35.5(105) Licensure by work experience in jurisdictions without licensure requirements.

35.5(1) *Work experience.*

a. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be considered to have met the applicable educational and training requirements if the person has at least three years of full time work experience within the four years preceding the date of application for initial licensure. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar to the applicable apprenticeship training that is required for individuals licensed under 641—Chapter 29.

b. If the board determines an applicant's prior work experience was not substantially similar to the scope of practice in Iowa, the applicant may submit a subsequent application for licensure by work experience if all of the following criteria are satisfied:

(1) The applicant enrolls in an apprenticeship program approved by the United States Department of Labor;

(2) The applicant obtains a board-issued apprentice license; and

(3) The applicant successfully completes one year in the apprenticeship program.

c. The applicant must satisfy all other license requirements, including passing any required examinations, to receive a license.

35.5(2) *Required documentation.* An applicant seeking to substitute work experience in lieu of satisfying applicable education or training requirements bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

a. Proof of Iowa residency, which may include:

(1) A residential mortgage, lease, or rental agreement;

(2) A utility bill;

(3) A bank statement;

(4) A paycheck or pay stub;

(5) A property tax statement;

(6) A document issued by the federal or state government; or

(7) Any other board-approved document that reliably confirms Iowa residency.

b. Proof of three or more years of full time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar to an applicable apprenticeship program approved by the United States Department of Labor. Proof of work experience may include, but is not limited to:

(1) A letter from the applicant's prior employer or employers documenting the applicant's dates of employment and scope of practice;

(2) A paycheck or pay stub; or

(3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.

c. Proof that the applicant's work experience involved a substantially similar scope of practice to the practice in Iowa, which must include:

(1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and

(2) Business or marketing materials detailing the services provided.

d. Proof that the other jurisdiction did not require a license to practice the profession, which may include:

(1) Copies of applicable laws;

(2) Materials from a website operated by a governmental entity in that jurisdiction; or

(3) Materials from a nationally recognized professional association applicable to the profession.

ITEM 20. Amend **641—Chapter 35**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 105.21 ~~as amended by 2013 Iowa Acts, Senate File 427~~ and 272C.12.

ITEM 21. Adopt the following **new** rule 641—57.13(17A):

641—57.13(17A) Petition for eligibility determination. Petitions for eligibility determination in accordance with Iowa Code section 272C.15(5) are not declaratory order proceedings and are not governed by this chapter. Petitions for eligibility determination are instead governed by 641—Chapter 29.

ITEM 22. Amend **641—Chapter 57**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 17A.9 and 272C.15.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 23. Amend **641—Chapter 62**, title, as follows:

PLUMBING AND MECHANICAL SYSTEMS BOARD—
MILITARY SERVICE, ~~AND~~ VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

ITEM 24. Amend rule 641—62.1(85GA,ch1116), introductory paragraph, as follows:

641—62.1(~~85GA,ch1116~~ 272C) Military service, ~~and~~ veteran reciprocity, and spouses of active duty service members. The board hereby adopts by reference 641—Chapter 196, "Military Service, ~~and~~ Veteran Reciprocity, and Spouses of Active Duty Service Members," Iowa Administrative Code.

ITEM 25. Adopt the following **new** rule 641—62.2(272C):

641—62.2(272C) Spouses of military members. A person who is married to an active duty member of the military forces of the United States, and who is accompanying the member on an official permanent change of station, may seek licensure by verification in accordance with 641—Chapter 35.

ITEM 26. Amend **641—Chapter 62**, implementation sentence, as follows:

~~This rule is~~ These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code sections 272C.4 and 272C.12.

ARC 5476C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to state mechanical code and providing an opportunity for public comment

The Plumbing and Mechanical Systems Board hereby proposes to amend Chapter 61, "State Mechanical Code," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 105.4.

Purpose and Summary

The proposed amendments include the adoption by reference of the International Mechanical Code (IMC), 2021 Edition. The Board previously adopted the 2018 Edition of the IMC. The Board is required by law to adopt the most recent version of the IMC.

Notable changes in the most recent version include provisions to maintain indoor air quality and correlate to the International Energy Conservation Code (IECC), allow type II commercial kitchen exhaust to be used in energy recovery ventilation systems and require wood-burning residential heaters to be EPA-certified, thus limiting high-particulate emissions. Additional changes reinforced safety-based requirements and correlation with the International Building Code (IBC), which include minimum wall thickness for subducts penetrations of shaft enclosures, emergency egress requirements for machinery rooms and the comprehensive rewrite of the refrigeration piping sections including safety-related provisions.

Fiscal Impact

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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 Board for a waiver of the discretionary provisions, if any, pursuant to the Board's general waiver provisions contained in 641—Chapter 31.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Kane Young
Plumbing and Mechanical Systems Board
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kane.young@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:

ITEM 1. Amend rule **641—61.1(105)**, definition of "Life Safety Code," as follows:

"Life Safety Code" means the ~~2000~~ 2021 edition of the Life Safety Code of the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, or the most recent version of the Life Safety Code adopted by reference by the federal Centers for Medicare and Medicaid Services.

ITEM 2. Amend rule 641—61.2(105), introductory paragraph, as follows:

641—61.2(105) Adoption by reference. ~~The provisions~~ Sections 101 and 102 and Chapters 2 to 15 of the International Mechanical Code, ~~2018~~ 2021 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings~~, with the following amendments:~~ and premises in Iowa.

ITEM 3. Rescind subrules **61.2(1)** to **61.2(15)**.

ITEM 4. Renumber rules **641—61.3(105)** and **641—61.4(105)** as **641—61.4(105)** and **641—61.5(105)**.

ITEM 5. Adopt the following **new** rule 641—61.3(105):

641—61.3(105) Amendments to International Mechanical Code. The International Mechanical Code (IMC), as adopted by reference in rule 641—61.2(105), shall be amended as follows:

61.3(1) Amend Section 101.2 by deleting the following: "Exception: Detached one- and two-family dwellings and townhomes not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height shall comply with this coded or the International Residential Code."

61.3(2) Amend Section 102 by adopting new Section 102.12 as follows:

102.12 Local authority

(a) Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in the state mechanical code adopted and amended by this chapter. Permit, inspection, testing, and enforcement provisions contained in this code shall not be administered by the Plumbing and Mechanical Systems Board or the state unless otherwise provided by law.

(b) Local jurisdictions may not adopt mechanical codes other than the state mechanical code adopted and amended by this chapter. Local jurisdictions may adopt additional amendments to the state mechanical code if the additional amendments are stricter than the state mechanical code as set forth in this chapter. Local jurisdictions that adopt additional amendments must provide copies of any local amendments to the board.

61.3(3) Amend Section 304.11 by deleting the last sentence and inserting in lieu thereof the following new exception:

Exception: Guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire lifetime of the roof covering. The devices shall be evaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

61.3(4) Amend Section 306.1 by deleting the last sentence and inserting in lieu thereof: "An unobstructed level working space at least 30 inches deep and 30 inches wide shall be provided on any side of equipment where service access is required. The authority having jurisdiction may approve service reductions prior to equipment installation, provided that the manufacturer's instructions are met."

61.3(5) Delete Section 306.2 and insert in lieu thereof the following new section:

306.2 Appliances in rooms and closets. Rooms and closets containing appliances shall be provided with a door and an unobstructed passageway measuring not less than 36 inches wide and 80 inches high. A level service space not less than 30 inches deep and 30 inches wide shall be present at the front service side of the appliance with the door open.

61.3(6) Amend Section 306.5 by:

a. Adding the following to the end of the section: "If the tenants of a multiple tenant building have, or are allowed to have, mechanical facilities on the roof or which penetrate the roof, then roof access ladders must be provided for use by all such tenants and their agents and contractors in a manner that does not require accessing space under the control of another tenant."

b. Deleting the following: "Exception: This section shall not apply to Group R-3 occupancies."

c. Adopting new Section 306.5.3 as follows:

306.5.3 Visual screening of rooftop equipment. Equipment screening shall not be installed to the rooftop unit or the curb of the rooftop unit unless specified in the mechanical equipment manufacturer's installation instructions.

61.3(7) Delete Section 401.1 and insert in lieu thereof the following new section:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

401.1 Scope. This chapter shall govern the ventilation of spaces within a building intended to be occupied. These buildings shall meet either the requirements of ASHRAE Standard 62.1, "Ventilation for Acceptable Indoor Air Quality," 2019 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; subslab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

61.3(8) Add the following footnote "i" related to the gym, stadium, arena (play area) category of the sports and amusement occupancy classification in Table 403.3.1.1, Minimum Ventilation Rates:

i. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

61.3(9) Add the following footnote "j" to Table 403.3.1.1 anywhere the term "smoking lounges" appears:

j. For ventilation purposes, "smoking" includes both combustible tobacco products and accessories and electronic smoking devices and accessories.

61.3(10) Delete Section 504.8.2 and insert in lieu thereof the following new section:

504.8.2 Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined by screws or similar fasteners that protrude into the inside of the duct.

61.3(11) Delete Subsection 506.3.13.3 and insert in lieu thereof the following new subsection:

506.3.13.3 Termination location. Exhaust outlets shall be located not less than 10 feet (3048 mm) horizontally from parts of the same or contiguous buildings, adjacent buildings and adjacent property lines and shall be located not less than 10 feet (3048 mm) above the adjoining grade level. Exhaust outlets shall be located not less than 20 feet horizontally/vertically from or not less than 5 feet above air intake openings and operable doors and windows into any building.

61.3(12) The first sentence of Section 507.3 shall be amended to read: "Type II hoods shall be installed above dishwashers capable of heating water beyond 140 degrees Fahrenheit and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system."

61.3(13) Delete Section 508.1.1 and insert in lieu thereof the following new section:

508.1.1 Makeup air temperature. All kitchen makeup air systems shall be verified by a certified TAB (testing and balance) contractor to heat makeup air to within 10 degrees of room temperature set point. The TAB contractor shall be certified by NEBB, TABB, or other certifying organization as approved by the Authority Having Jurisdiction.

61.3(14) Amend Section 601.5 by adopting new paragraph "9" as follows:

9. Return air openings shall be located at least 18 inches from supply air openings. Air throw shall be directed away from return air openings to reduce short cycling of air. Exception: Factory-made concentric duct terminations.

61.3(15) Amend Section 601.5 by adopting new paragraph "10" as follows:

10. One return air opening per floor is required on a central duct return system per ACCA Manual D, Appendix 8. Return air transfer openings are required on all bedrooms when dedicated return air openings are not used.

61.3(16) Amend Section 603 by adopting new Section 603.1.1 as follows:

603.1.1 Duct location. Air plenums and ducts located in floor and wall cavities shall be separated from unconditioned space by construction with insulation to meet energy code requirements. These areas include but are not limited to exterior walls, cantilevered floors, and floors above garages.

61.3(17) Delete Section 604.3 and insert in lieu thereof the following new section:

604.3 Coverings and linings. Duct coverings and linings, including adhesives where used, shall have a flame spread index of not more than 25 and a smoke-development index of not more than 50,

when tested in accordance with ASTM E84 or UL 723, using the specimen preparation and mounting procedures of ASTM E2231. Duct coverings and linings shall not flame, glow, smolder or smoke when tested in accordance with ASTM C411 at the temperature to which they are exposed in service. The testing temperature shall not fall below 250ºF (121ºC). Coverings and linings shall be listed and labeled. The use of an air gap to meet R-value requirements for duct insulation shall be prohibited.

61.3(18) Amend Subsection 607.6.2.1 by adopting new Subsections 607.6.2.1.3 and 607.6.2.1.4 as follows:

607.6.2.1.3 Access ceiling radiation dampers shall be provided with an approved means of access that is large enough to permit inspection and maintenance of the damper and its operating parts. Dampers equipped with fusible links, internal operators for both shall be provided with either an access door that is not less than 12 inches (305mm) square, or a removable duct section.

607.6.2.1.4 Identification ceiling radiation damper locations and access points shall be permanently identified on the exterior by a label or marking acceptable to the authority having jurisdiction.

61.3(19) Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

ARC 5440C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to blue alert program and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 89, "Missing Persons," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 80H.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 80H.

Purpose and Summary

The purpose of the proposed amendments to Chapter 89 is to adopt rules to implement the Blue Alert Program created by the Legislature in the 2019 Legislative Session to aid in the search for a suspect involved in the death or a serious injury of a peace officer or a peace officer who goes missing while in the line of duty.

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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. 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 provisions of rule 661—10.222(17A).

PUBLIC SAFETY DEPARTMENT[661](cont'd)

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.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 661—Chapter 89**, Division III heading:

DIVISION III
BLUE ALERT PROGRAM

ITEM 2. Adopt the following **new** rules 661—89.300(80H) to 661—89.307(80H):

661—89.300(80H) Blue alert program. This chapter implements the Iowa blue alert program as a cooperative effort between the department and local law enforcement agencies to aid in the search for a suspect of a crime involving the death or serious injury of a peace officer in the line of duty or a peace officer who is missing while in the line of duty under circumstances warranting concern for the peace officer's safety.

661—89.301(80H) Definitions. The definitions in Iowa Code section 80H.1 are adopted and incorporated herein. In addition:

"In the line of duty" or *"on duty"* means the peace officer is working within the scope of a peace officer, or there is evidence the death or serious injury of the peace officer or the fact the peace officer is missing is related to the peace officer's actions within the scope of a law enforcement officer.

"Serious injury" means any of the following:

1. Disabling mental illness;
2. Bodily injury which does any of the following:

- Creates a substantial risk of death;
- Causes serious permanent disfigurement; or
- Causes protracted loss or impairment of the function of any bodily member or organ.

661—89.302(80H) Criteria for alert for officer injury or death. A blue alert shall be issued by Iowa state patrol communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of a blue alert are met:

1. A peace officer has suffered death or serious injury in the line of duty;
2. A law enforcement agency believes that the suspect has not been apprehended;
3. A law enforcement agency believes that the suspect may be a serious threat to the public;
4. Sufficient descriptive information is available to disseminate to the public that could assist in locating the suspect.

661—89.303(80H) Criteria for alert for missing officer. A blue alert shall be issued by department communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of a blue alert are met:

1. A peace officer is missing while in the line of duty under circumstances warranting concern for the peace officer's safety;
2. Sufficient descriptive information is available to disseminate to the public that could assist in locating the missing peace officer.

661—89.304(80H) Alternative alert if criteria are not satisfied. If a blue alert has been requested and the criteria established in rules 661—89.302(80H) and 661—89.303(80H) are not satisfied, the department may broadcast identifying information of the suspect, issue a missing person alert, or both.

661—89.305(80H) Activation procedures.

89.305(1) An Iowa blue alert shall be issued by department communications upon receipt of a request from a participating law enforcement agency, provided the criteria established in rules 661—89.302(80H) and 661—89.303(80H) are met.

89.305(2) In order to initiate an Iowa blue alert, a law enforcement agency shall submit by facsimile transmission a completed copy of the "State of Iowa Blue Alert Notification Plan Facsimile Transmission Packet" to the Des Moines station of department communications. If transmission to the Des Moines station is not feasible, transmission may be made to the Cedar Rapids department communications.

89.305(3) Upon establishment of the blue alert criteria established in Iowa Code section 80H.3 and rules 661—89.302(80H) and 661—89.303(80H), the department shall transmit a blue alert through the emergency alert system to Iowa broadcasters.

89.305(4) Upon the transmission of a blue alert, the department shall post the alert on its website, accessible by the public.

NOTE: The website of the department is dps.iowa.gov.

89.305(5) After an initial blue alert transmission, additional information may be submitted by the participating law enforcement agency by facsimile transmission, electronic mail, or telephonic means.

89.305(6) The bureau chief of the department communications bureau may direct the transmission of an Iowa blue alert upon request from another state, provided that there is evidence the suspect may be present in Iowa.

89.305(7) The blue alert transmission may be directed to a specific geographic location within the state if the department communications bureau determines that the nature of the event makes it probable that the suspect or peace officer did not leave a certain geographic location of the state.

661—89.306(80H) Information made public. The department communications bureau shall not release any information about the identity of a peace officer in a case involving the death or serious injury of the peace officer who is the subject of a blue alert.

If a blue alert is issued because a peace officer is missing while on duty, the department communications bureau shall defer to the investigating law enforcement agency about the nature and limits of the officer information to be made public.

661—89.307(80H) Termination procedures.

89.307(1) A blue alert shall terminate if any of the following occur:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

a. The suspect or peace officer is located;

b. The department determines that the blue alert is no longer an effective tool for locating the suspect or peace officer;

c. Five hours have elapsed since the transmission of the blue alert unless otherwise renewed.

89.307(2) Law enforcement agencies shall notify the department immediately upon taking a suspect into custody or upon locating the missing peace officer.

These rules are intended to implement Iowa Code chapter 80H.

ARC 5469C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to geothermal heat pump income tax credit and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 422.12N and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.12N.

Purpose and Summary

This proposed rule making is intended to implement the Iowa geothermal heat pump income tax credit enacted in 2019 Iowa Acts, House File 779, for geothermal heat pumps installed on residential property in Iowa.

Fiscal Impact

This rule making has no fiscal impact beyond that of the legislation it is intended to implement.

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 701—7.28(17A).

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

REVENUE DEPARTMENT[701](cont'd)

Michael Mertens
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Public Hearing

If requested, a public hearing will be held on March 16, 2021, via video/conference call from 9 to 10 a.m. Persons who wish to participate in the video/conference call should contact Michael Mertens before 4:30 p.m. on March 15, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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:

Rescind rule 701—42.47(422) and adopt the following **new** rule in lieu thereof:

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2019, a geothermal heat pump tax credit is available for residential property located in Iowa as provided in Iowa Code section 422.12N and this rule. Information relating to Iowa geothermal tax credits available for tax years prior to January 1, 2019, can be found in prior versions of this rule. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

42.47(1) *Eligibility for the credit.* To be eligible for the credit described in this rule, all of the following requirements must be met:

a. The geothermal heat pump must be eligible for the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.

b. The taxpayer must claim the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.

c. The geothermal heat pump must be installed on residential property located in Iowa and placed in service on or after January 1, 2019. In determining whether this requirement is met, the term "placed in service" has the same meaning as used in Section 25D of the Internal Revenue Code.

d. The taxpayer must submit a timely and complete application to the department in accordance with subrule 42.47(4).

42.47(2) *Calculation of the credit.*

a. The credit is equal to 20 percent of the federal residential energy efficient property tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. Thus, the Iowa credit rate equals the following percentage of the qualified geothermal heat pump property expenditures:

(1) For property placed in service during calendar year 2019, 6 percent.

(2) For property placed in service during calendar years 2020 through 2022, 5.2 percent.

(3) For property placed in service during calendar year 2023, 4.4 percent.

b. This credit is set to expire on January 1, 2024, in accordance with Public Law No. 116-260, Div. EE, Title I, Subtitle C, §148. If the federal residential energy efficient property tax credit for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code is extended by

federal legislation into additional tax years, the Iowa credit will continue to be available for each year in which the corresponding federal credit is available, absent action by the Iowa general assembly.

42.47(3) *Tax credit award program limitations.* No more than $1 million in geothermal heat pump tax credits will be issued per calendar year. If the annual tax credit allocation cap is not reached, the remaining amount below the cap shall be made available for the following tax year in addition to, and cumulated with, the cap for that year.

42.47(4) *How to apply for the credit—waitlist.*

a. *In general.* Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit shall be submitted through the tax credit submission system, which applicants may access through the department's website.

b. *Application deadline.* The application must be filed by May 1 of the year following the year of the installation of the geothermal heat pump.

c. *Contents of the application.* The application must contain the following information:

(1) Name, address, and federal identification number of the taxpayer.

(2) Date of installation of the geothermal heat pump. This is the same as the date the installation was placed in service by the taxpayer.

(3) Copies of invoices or other documents showing the cost of the geothermal heat pump.

(4) Amount of federal income tax credit claimed for the geothermal heat pump.

(5) Amount of Iowa tax credit requested.

(6) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

d. *Waitlist.*

(1) If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. Only valid applications filed by the taxpayer by May 1 of the year following the year the geothermal heat pump was installed shall be eligible for the waitlist.

(2) If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. Therefore, any geothermal heat pump tax credit request related to an installation completed prior to January 1, 2024, that does not receive a tax credit award by the time the 2023 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(3) Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to this rule in a future year is contingent upon the availability of tax credits in that particular year.

42.47(5) *Claiming the tax credit.*

a. *Certificate issuance.* If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

b. *Claiming the tax credit.* The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the geothermal heat pump tax credit federal Form 5695, Residential Energy Credits.

c. *Nonrefundable.* Any credit in excess of the taxpayer's tax liability is nonrefundable.

d. *Carryforward.* Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

e. *Nontransferable.* The tax credit may not be transferred to any other person.

This rule is intended to implement Iowa Code section 422.12N and 2019 Iowa Acts, House File 779.

ARC 5470C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to solar energy system tax credit and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 422.11L and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 422.11L, 422.33 and 422.60.

Purpose and Summary

This proposed rule making makes a number of changes to the Department's rules on the Iowa solar energy system tax credit in rules 701—42.48(422), 701—52.44(422), and 701—58.22(422). These changes can generally be separated into two categories. The first category of changes includes updates that reflect current law, improve clarity and readability, and provide additional guidance on the administration of certain tax credit issues. The second category of changes revise the criteria used to determine whether a solar energy system constitutes a "separate and distinct solar installation" and therefore qualifies for the Iowa solar energy system tax credit. These amendments include:

- Updates to language describing the relationship between the Iowa solar energy system tax credit, the federal residential energy efficiency property credit, and the federal energy credit, including federal definitions and terms relevant to the Iowa tax credit.
- A table describing the relevant Iowa tax credit rates based on the applicable solar property involved, the calendar year in which construction begins, and the calendar year in which the property is placed in service.
- A description of the Department's treatment of solar installations that are used for both residential and business purposes. In such instances, both tax credit award limitations apply and are calculated separately based on the proportion of the installation used for business purposes and for residential purposes.
- A description of the Department's treatment of business property solar installations that receive an Iowa tax credit and are later subject to a federal tax credit recomputation. Because the Iowa tax credit is a percentage of the applicable federal tax credit, recomputation of the Iowa tax credit is also required.
- Updates to the information required with an Iowa tax credit application.
- Additional information relating to the effect of the Iowa tax credit expiration on the waitlist. The Iowa Code calculates the Iowa tax credit in part as a percentage of applicable federal tax credits and provides that the approval of Iowa tax credit applications is contingent upon the availability of tax credits in that particular year. Likewise, the Department's current rules provide that after the final year the federal tax credit is available, no applications remaining on the waitlist will be carried over to the next year. This rule making further describes this tax credit limitation for both residential and business solar tax credit applications. Because the federal residential solar tax credit expires and is unavailable for Iowa purposes for installations completed after December 31, 2021, any Iowa residential solar tax credit application that does not receive a tax credit award by the time the 2021 aggregate award limitation is met shall expire. Because the federal business solar tax credit does not expire for Iowa purposes, and is available in any future year if construction on the installation begins prior to January 1, 2022, any

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Iowa business solar tax credit application that does not receive a tax credit award by the time the annual aggregate award limitation is met shall be carried over on the waitlist to future years and will be eligible to receive a tax credit award in a future year.

- A revision to criteria used to determine whether an installation is considered a "separate and distinct installation" from other installations that have received an Iowa solar energy system tax credit, and thus is eligible for an additional Iowa tax credit. By law, the Department is responsible for establishing the criteria by rule for what constitutes a separate and distinct installation. The Department's current rule and interpretation of that rule require only that the solar installation have a separate utility meter. Based on scenarios that have come up in the administration of the credit, the Department has concluded that the presence or absence of a separate utility meter is not, by itself, the best indicator for whether solar property is separate and distinct from another solar installation. Relying on that single criterion has the potential to produce inequitable results between similarly situated taxpayers, and taxpayers have various reasons for installing or not installing a utility meter with respect to solar property. This rule making proposes a multifactor test in lieu of that single-factor test. Under revised rule 701—42.48(422), the Department will consider the following factors:
  - First, the Department will evaluate whether the installation is categorized as a repair or maintenance of another installation. Repairs and maintenance do not qualify for the Iowa tax credit.
  - Second, the Department will consider whether the solar property is a replacement installation. A replacement installation may qualify for the Iowa tax credit as described in the rule.
  - Finally, if the solar property does not fall into either of those categories, the Department will evaluate whether the solar installation can be considered independent of other solar installations based primarily on a review of the buildings or structures being powered by the solar installation (referred to as "electrical generation purpose" in the revised rule). Solar installations that power similar buildings or structures will be evaluated differently than those that do not power similar buildings or structures. The rule contains an exception that allows solar installations that power similar buildings or structures to nonetheless qualify for the Iowa credit if the taxpayer can demonstrate a substantial increase in electricity demand as defined in the rule. If a determination cannot be made by the Department by only reviewing the electrical generation purpose of the solar installation, the rule includes a nonexhaustive list of other criteria that may be considered by the Department, including but not limited to location, billing, utility metering, payment terms, contract terms, and timing of the installation or application.

The revised rule contains a safe harbor for solar installations that begin construction prior to June 1, 2021, which allows a taxpayer to rely on the prior single-factor separate utility meter test in determining whether that solar installation is separate and distinct under Iowa law.

Fiscal Impact

These amendments have no fiscal impact beyond that of the legislation they are intended to implement.

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 701—7.28(17A).

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 Department no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

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Michael Mertens
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Public Hearing

If requested, a public hearing will be held on March 16, 2021, via video/conference call from 10 to 11 a.m. Persons who wish to participate in the video/conference call should contact Michael Mertens before 4:30 p.m. on March 15, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 701—42.48(422) as follows:

701—42.48(422) Solar energy system tax credit. ~~For tax years beginning on or after January 1, 2012, a~~ A solar energy system tax credit is available for both residential property and business property located in Iowa as provided in Iowa Code section 422.11L and this rule. ~~The solar energy system must be installed on or after January 1, 2012, to be eligible for the credit.~~

~~**42.48(1)** *Property eligible for the tax credit.* The following property located in Iowa is eligible for the tax credit:~~

~~*a.* Qualified solar water heating property described in Section 25D(d)(1) of the Internal Revenue Code.~~

~~*b.* Qualified solar energy electric property described in Section 25D(d)(2) of the Internal Revenue Code.~~

~~*c.* Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.~~

~~*d.* Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.~~

~~**42.48(2)**~~ **42.48(1)** *Relationship between the Iowa and federal credits.* ~~As stated in subrules 42.48(3) to 42.48(5) below, the~~

a. The Iowa credit is a percentage of the applicable federal credit. Taxpayers who apply for the Iowa credit must also qualify for and claim the corresponding federal credit. Availability of the Iowa credit for a specific type of installation in a given year is dependent upon availability of the federal credit for that type of installation.

b. The Iowa credit ~~is coupled~~ conforms with the Internal Revenue Code as amended to and including January 1, 2016. The term "Internal Revenue Code" as used in this rule refers to the Internal Revenue Code as it existed on January 1, 2016. See Iowa Code section 422.11L(6); see also Public Law No. 114-113, Div. P, Title III, §§ 302, 303, 304, and Div. Q, Title I, § 187.

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~~**42.48(3)** *Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014.* The credit is equal to the sum of the following federal tax credits:~~

~~*a.* Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.~~

~~*b.* Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.~~

~~*c.* Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.~~

~~*d.* Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.~~

~~The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3)*"a"* and *"b"* cannot exceed $3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3)*"c"* and *"d"* cannot exceed $15,000 for a tax year.~~

~~**42.48(4)** *Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, and installed before January 1, 2016.* The credit is equal to the sum of the following federal tax credits:~~

~~*a.* Sixty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.~~

~~*b.* Sixty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.~~

~~*c.* Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.~~

~~*d.* Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.~~

~~The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(4)*"a"* and *"b"* cannot exceed $5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(4)*"c"* and *"d"* cannot exceed $20,000 per separate and distinct installation. "Separate and distinct installation" is described in subrule 42.48(7).~~

~~**42.48(5)**~~ **42.48(2)** *Calculation of the credit ~~for systems installed on or after January 1, 2016~~ —per installation award limitation.*

a. The credit is equal to the sum of the following federal tax credits for property located in Iowa:

~~*a.*~~ (1) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code. This federal credit equals an applicable percentage of qualified solar energy electric property expenditures described in Section 25D(d)(2) of the Internal Revenue Code for residential use. This credit is ~~set to expire~~ not available for Iowa purposes for any qualified solar energy electric property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

~~*b.*~~ (2) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code. This federal credit equals an applicable percentage of the qualified solar water heating property expenditures described in Section 25D(d)(1) of the Internal Revenue Code for residential use. This credit is ~~set to expire~~ not available for Iowa purposes for any qualified solar water heating property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

~~*c.*~~ (3) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property equipment described in Section 48(a)(3)(A)(i) of the Internal Revenue Code that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purpose of heating a swimming pool), for business use. This credit ~~applies to~~ is not available for Iowa purposes for any qualified property the construction of which begins ~~before~~ on or after January 1, 2022, in accordance with Public Law No. 114-113 Div. P, Title III, § 303.

~~*d.*~~ (4) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code that uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, for business use. This credit is ~~set to expire~~ not available for Iowa purposes for any qualified property placed in service after December 31, 2016, in accordance with Public Law No. 114-113 Div. Q, Title I, § 187.

Iowa Solar Energy System Tax Credit Rates for Installations On or After January 1, 2016,* Based on 50% of Applicable Federal Rate Under Sections 25D and 48 of the Internal Revenue Code in Effect on January 1, 2016			
Applicable Property	Calendar Year Construction Begins	Calendar Year Property Placed in Service	Iowa Tax Credit Rate
Qualified Residential Solar Electric Property Under Section 25D(a)(1) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Residential Solar Water Heating Property Under Section 25D(a)(2) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Business Energy Property (electric, heat/cool, solar process heat) Under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code	2016-2019	2016-2023	15%
		2024 or later	5%
	2020	2020-2023	13%
		2024 or later	5%
	2021	2021-2023	11%
		2024 or later	5%
	2022 or later	2022 or later	0%
Qualified Business Energy Property (fiber-optic solar illumination) Under Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code	N/A	2016	15%
	N/A	2017 or later	0%
*For a description of Iowa tax credit rates for installations placed in service prior to January 1, 2016, consult the prior versions of this rule.			

b. A solar installation must be placed in service to be eligible for the tax credit. In determining whether this requirement is met, the term "placed in service" has the same meaning as used for purposes of Section 25D or 48 of the Internal Revenue Code, as applicable. The date a taxpayer begins construction of a solar installation for purposes of Section 48 of the Internal Revenue Code shall be the same date the taxpayer begins construction for Iowa purposes.

c. The amount of tax credit claimed by a taxpayer related to ~~paragraphs 42.48(5)*"a"* and *"b"*~~ subparagraphs 42.48(2)*"a"*(1) and 42.48(2)*"a"*(2) cannot exceed $5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to ~~paragraphs 42.48(5)*"c"* and *"d"*~~ subparagraphs 42.48(2)*"a"*(3) and 42.48(2)*"a"*(4) cannot exceed $20,000 per separate and distinct installation. When a separate and distinct installation is used for residential and business purposes, both award limitations apply and are calculated separately based on the proportion of the installation used for business purposes and for residential purposes. The burden is on the taxpayer to prove the proper proportions. If the department is unable to determine these proportions from the information provided by the taxpayer, the entire installation shall be deemed used for residential purposes. The term "separate and distinct installation" is described in subrule ~~42.48(7)~~ 42.48(5).

EXAMPLE 1: Taxpayer A is a farmer who installs solar energy property during 2020 that provides power to two farm buildings and A's residence. Taxpayer A submits one application for the Iowa solar

energy system tax credit showing $100,000 of total eligible expenditures. Taxpayer A provides adequate evidence to the department showing that 40 percent of the solar energy property is used for residential purposes and 60 percent for farm business purposes. The department will consider the taxpayer to have submitted a tax credit application requesting both a residential solar energy system tax credit and a business solar energy system tax credit. The residential tax credit request includes $40,000 ($100,000 × 40%) of eligible expenditures, subject to the $5,000 tax credit cap. Therefore, A is eligible for a residential tax credit of $5,000 ($40,000 × 13% Iowa credit rate = $5,200, less $200 in excess of cap). The business tax credit request includes $60,000 ($100,000 × 60%) of eligible expenditures, subject to the $20,000 tax credit cap. Therefore, A is eligible for a business tax credit of $7,800 ($60,000 × 13% Iowa credit rate). Taxpayer A receives a total Iowa tax credit of $12,800 ($5,000 + $7,800). Although A submitted one tax credit application in this situation, the resulting tax credit amount would have been the same if A had instead submitted two separate tax credit applications: one residential application with $40,000 of eligible expenditures and one business application with $60,000 of eligible expenditures.

EXAMPLE 2: Same facts as Example 1, except that taxpayer A does not submit adequate evidence to the department showing the proportion of the solar energy property used for residential and business purposes. The department deems the entire installation used for residential purposes, subject to the $5,000 tax credit cap. Therefore, A receives a total Iowa tax credit of $5,000 ($100,000 × 13% Iowa credit rate = $13,000, less $8,000 in excess of cap).

d. Recomputation of federal credit.

(1) Because the Iowa credit is a percentage of the applicable federal credit, when the federal credit under Section 48 of the Internal Revenue Code is recomputed under 26 CFR §1.47-1, the Iowa credit amount must also be recomputed and reduced by the same percentage that the federal credit was reduced. The federal credit recomputation is required on the federal Form 4255, Recapture of Investment Credit.

(2) In the year of the recomputation, if the amount of the Iowa credit previously claimed is less than the recomputed Iowa credit amount, the taxpayer must reduce any remaining available carryforward amount to reflect the Iowa credit carryforward remaining after the recomputation.

(3) If the amount of the Iowa credit previously claimed is more than the recomputed Iowa credit amount, the taxpayer must include the amount that was overclaimed in prior tax years as a negative credit amount on the IA 148, Iowa Tax Credit Schedule, and any remaining unused credit carryforward amount expires immediately. The negative credit amount represents the overclaimed Iowa credit and will be netted against the taxpayer's other nonrefundable tax credits on the IA 148, Iowa Tax Credit Schedule, if any. After applying the negative credit amount against other available nonrefundable credits, if the taxpayer's net total nonrefundable credits for the year is a negative amount, that negative amount must be entered on the appropriate line of the taxpayer's income tax return for reporting nonrefundable Iowa credits from the IA 148, Iowa Tax Credit Schedule, and will increase the taxpayer's tax liability.

~~42.48(6)~~ 42.48(3) *Tax credit award program limitations.* The following program limitations apply:

a. *Aggregate tax credit award limit.* No more than $5 million of tax credits per year will be issued for calendar years beginning on or after January 1, 2015. The annual tax credit allocation cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax and in rule 701—58.22(422) for franchise tax.

b. *Allocation for residential installations.* Beginning with tax year 2014, at least $1 million of the annual tax credit allocation cap for each tax year is reserved for residential installations qualifying under Section 25D of the Internal Revenue Code. If the total amount of credits for residential installations for a tax year is less than $1 million, the remaining amount below $1 million will be allowed for nonresidential installations qualifying under Section 48 of the Internal Revenue Code.

c. *Rollover of unallocated credits.* Beginning with calendar year 2014, if the annual tax credit allocation cap is not reached, the remaining amount below the cap ~~will be allowed to be carried forward to~~ shall be made available for the following tax year ~~and shall not count toward the~~ in addition to, and cumulated with, the cap for that year.

~~42.48(7)~~ 42.48(4) *How to apply for the credit.* Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit ~~may~~ shall be submitted

through the ~~Tax Credit Award, Claim, and Transfer Administration System (CACTAS)~~ tax credit submission system, which applicants may access through the department's website.

~~*a. Separate and distinct installation requirement.* A taxpayer may apply for one tax credit for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:~~

~~(1) Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule 42.48(1).~~

~~(2) Each installation must have separate metering.~~

~~*b.*~~ *a. Application deadline.* For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. Notwithstanding the foregoing sentence, the following extensions are applicable to installations completed in 2014 and 2015:

(1) Solar energy systems installed during the 2014 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2015. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

(2) Solar energy systems installed during the 2015 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2016. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

~~*c.*~~ *b. Contents of the application.* The application must contain the following information:

(1) Name, address, and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system. This is the same as the date the installation was placed in service by the taxpayer.

(3) The kilowatt capacity of the solar energy system.

(4) Copies of invoices or other documents showing the cost of the solar energy system.

(5) Amount of federal income tax credit claimed for the solar energy system.

(6) Amount of Iowa tax credit requested.

(7) All applicants must provide a completion sheet from a local utility company or similar documentation verifying that installation of the system has been completed. For nonresidential installations, the completion sheet must indicate the date the installation was placed in service. If a completion sheet from the local utility company or similar documentation is not available, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

(8) ~~For leased solar energy systems where the lessor is the applicant, the lessor should also provide a copy of the solar energy system lease that indicates the property that is the subject of the lease and the parties to the lease agreement. If the lessor~~ A copy of any signed agreement made regarding the solar energy system that verifies the applicant is a qualified applicant. This includes, but is not limited to, lease agreements. When an applicant is entitled to the Iowa solar energy system tax credit for a leased solar energy system, the ~~lessee~~ other party to the lease will not be entitled to such a credit for the same leased solar energy system.

(9) For nonresidential installations, the date on which construction began.

(10) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

c. Previously claimed expenditures disallowed. An applicant may not include on an application any expenditure for which the taxpayer previously received, or was denied, a tax credit award or any expenditure that was part of an approved separate and distinct installation but was disallowed due to exceeding the maximum Iowa tax credit amount.

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d. Waitlist. If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. ~~The applications will be prioritized based on the date the department received the applications and shall first be funded in the order listed on the waitlist.~~ Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. With the exception of the extension described in subparagraphs ~~42.48(7)*"b"*(1) and (2)~~ 42.48(4)*"a"*(1) and 42.48(4)*"a"*(2) above, only valid applications filed by the taxpayer by May 1 of the year following the year of the installation of the solar energy property shall be eligible for the waitlist. If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. This tax credit limitation shall apply as follows:

(1) Residential property tax credit claims. The federal credits related to residential property under Sections 25D(a)(1) and 25D(a)(2) of the Internal Revenue Code expire and are unavailable for Iowa tax purposes for installations completed on or after January 1, 2022. Therefore, any residential tax credit request related to an installation completed prior to January 1, 2022, that does not receive a tax credit award by the time the 2021 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(2) Business property tax credit claims. The federal credit related to business property under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code does not expire for Iowa tax purposes. It is available for installations that begin construction prior to January 1, 2022, in any future tax year the installation is placed in service. Therefore, any business tax credit request related to an installation that begins construction prior to January 1, 2022, but that does not receive a tax credit award by the time the annual aggregate award limitation is met will not expire and will be eligible to be carried over on the waitlist to future years, and receive a tax credit award in a future year, provided the authorization to approve and issue tax credits under Iowa Code section 422.11L(4)*"a"* is not repealed.

Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to ~~subrule 42.48(7)~~ this rule in a future year is contingent upon the availability of tax credits in that particular year.

e. Certificate issuance. If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

f. Claiming the tax credit. The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

g. ~~*Refundability*~~ *Nonrefundable.* Any credit in excess of the taxpayer's tax liability is nonrefundable.

h. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

i. ~~*Transferability*~~ *Nontransferable.* The credit may not be transferred to any other person.

42.48(5) *Separate and distinct installation requirement.* Only one tax credit may be awarded and claimed for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. For purposes of this subrule, unless the context otherwise requires, use of the term "installation" or "solar installation" refers to the physical equipment that generates electricity using solar energy in a manner that qualifies that equipment for a tax credit. In order for an installation that otherwise meets the requirements of Iowa Code section 422.11L and this rule to be considered a separate and distinct solar installation, both of the factors in paragraphs 42.48(5)*"a"* and *"b"* must be met. This determination is made by the department and requires a review of the current application received by the department and all prior applications received by the department from any taxpayer. When determining

whether a solar installation is separate and distinct from other solar installations, the department will consider the totality of the facts and circumstances surrounding the solar installations. The taxpayer bears the burden of showing that an installation qualifies as separate and distinct. For a safe harbor rule relating to solar installations that begin construction prior to June 1, 2021, see paragraph 42.48(5)*"c."*

a. A repair or maintenance shall not constitute a solar installation. If the installed equipment repairs or otherwise maintains the working order of another solar installation or part of another solar installation, it will not be considered separate and distinct from that other solar installation, even if the installed equipment results in increased production capacity because of its superior quality, performance, or efficiency, or other similar reason. Evidence that part of the other solar installation was removed or replaced at or around the time the equipment was installed is a strong indication that the equipment is a repair or maintenance, but it is not required for such a determination.

EXAMPLE 3: Taxpayer B applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer B's workshop. Two years after that solar installation is placed in service, the solar inverter malfunctions. Taxpayer B purchases and installs a new solar inverter, which keeps the solar installation in working order. At the same time, B also replaces several functioning solar panels on the solar installation with new, higher quality panels that increase the solar installation's production capacity. Taxpayer B submits a second application for the costs of the solar inverter and the solar panels. These costs are considered a repair or maintenance and do not qualify as separate and distinct from the prior installation. Therefore, they do not qualify for the Iowa solar tax credit. This is the result even if the costs qualify for the federal tax credit and even though the solar panels improve the productivity of the solar installation.

b. The solar installation must be a replacement installation or an independent installation.

(1) Replacement installation. When previous solar installations have been completely decommissioned, whether from disposal by the applicant, or casualty loss or theft, the new solar installation may be considered a replacement installation of the decommissioned solar installation. A solar installation that ceases operation but that has not been physically removed and discarded by a person is not decommissioned unless it cannot operate and is incapable of being repaired to working order. A solar installation that merely changes location or ownership has not been decommissioned and thus may not qualify as a replacement installation. Expenditures that are subject to an insurance reimbursement do not qualify for the solar energy system tax credit.

EXAMPLE 4: Taxpayer C applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer C's business. One year after that solar installation is placed in service, it is destroyed beyond repair by a severe storm. Taxpayer C's insurance policy does not cover damage to a solar installation. Taxpayer C purchases and places in service another solar installation that powers taxpayer C's business and timely applies for the Iowa solar energy system tax credit. Taxpayer C's subsequent installation may be eligible for the Iowa solar energy system installation credit as a replacement installation.

(2) Independent installation. An independent installation is one that has a sufficiently remote association with other solar installations that received the Iowa solar energy system tax credit such that it can be considered independent from those other solar installations. When determining whether a particular solar installation qualifies as an independent installation, the department will first consider the electrical generation purpose of the relevant solar installations, as described in numbered paragraph 42.48(5)*"b"*(2)"1" below. Only if the department finds that it cannot make a determination from that criteria alone will the department consider other criteria. A nonexhaustive list of other criteria that may be considered by the department is provided in numbered paragraph 42.48(5)*"b"*(2)"2" below.

1. Electrical generation purpose. The department will review the electrical generation purpose of each solar installation. As described below, this involves a review of the building(s) or structure(s) being powered by each solar installation. When two or more solar installations have the same electrical generation purpose, they are not independent installations. When two or more solar installations have different electrical generation purposes, this is an indication that they may be independent installations. With respect only to a multiple housing cooperative under Iowa Code chapter 499A or a horizontal property regime under Iowa Code chapter 499B, each apartment shall constitute a building or structure,

and each cooperative or regime owner's proportionate share of qualifying expenses incurred by the cooperative or regime shall constitute a solar installation paid by the cooperative or regime owner.

● Same building(s) or structure(s). If the applied-for solar installation will power buildings or structures that are also being powered by another solar installation, or that were being powered by another solar installation at some point during the 12-month period before the applied-for solar installation was placed in service, then the installations have the same electrical generation purpose. However, adequate proof from the taxpayer of a substantial increase in electricity demand is evidence tending to indicate that the solar installations do not have the same electrical generation purpose. A "substantial increase in electricity demand" exists when the sum of the average monthly electricity consumption of each building or structure powered by the applied-for solar installation for the 12-month period before the applied-for solar installation is placed in service is at least 50 percent greater than the sum of the average monthly electricity consumption of each building or structure powered by the other solar installation for the 12-month period before the other solar installation was placed in service. Average electricity consumption shall be measured in kilowatt hours. With respect to the other solar installation, if any applicable building or structure was not in service for a period of 12 months before the other solar installation was placed in service, the average monthly electricity consumption for that building or structure shall be the average electricity consumption for the first 12 months the building or structure was in service. With respect to the applied-for solar installation, the calculation of the average monthly electricity consumption for any building or structure that was not placed in service prior to the other solar installation shall be calculated using a denominator of 12 even if that building or structure was not in service for a period of 12 months before the applied-for solar installation was placed in service. The reason for the increased electricity consumption shall not be relevant in determining if a substantial increase in electricity demand exists.

EXAMPLE 5: Taxpayer D is awarded a solar energy system tax credit for a solar installation that provides power to D's home. Three years later, D installs a second solar installation that also provides power to D's home. Absent additional information from D that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first installation because they both provide power to D's home. Therefore, the second solar installation would not be considered an independent installation.

EXAMPLE 6: Taxpayer E owns an apartment building with ten apartment units. In 2021, taxpayer E installs solar energy business property with a cost of $300,000 that will power the apartment building. Taxpayer E submits solar tax credit applications for ten different solar installations, one for each unit within the apartment building. Each application claims $30,000 in qualifying costs and requests an Iowa solar credit of $3,300 ($30,000 × 11%) for business property, for a sum total of $33,000 in tax credits. Because the solar installations claimed on all ten applications provide power to the same apartment building, they all have the same electrical generation purpose. Therefore, only one of the solar installations could qualify for the tax credit as an independent installation, subject to the $20,000 per-installation tax credit cap. The other nine installations would all fail to qualify as independent installations. The result is the same whether or not the apartment units have separate utility meters. See Example 10 for a different result if the building were organized as a multiple housing cooperative or horizontal property regime.

EXAMPLE 7: Taxpayer F, a machinist, is awarded a solar energy system tax credit for a solar installation that provides power to F's machine shop. Several years later, F installs a second solar installation that will provide power to F's machine shop but also to F's office building. Taxpayer F submits a complete and timely application for the solar energy system tax credit. Absent additional information from F that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first solar installation because they both provide power to F's machine shop. Therefore, the second solar installation would not be considered an independent installation.

EXAMPLE 8: Assume the same facts as Example 7, except that taxpayer F provides additional information to the department regarding the electricity consumption of F's machine shop and office building. Taxpayer F provides utility bills which show that for the 12-month period before the first

solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,000 kilowatt hours. For the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,200 kilowatt hours. Additionally, the office building was constructed and placed in service three months before the second solar installation was placed in service. Taxpayer F provides utility bills which show that for the three months the office building was in service, the monthly electricity consumption for the office building was 1,400 kilowatt hours, 1,600 kilowatt hours, and 1,800 kilowatt hours, respectively. This means that the average monthly electricity consumption of the office building for purposes of the "substantial increase in energy demand" test is 400 kilowatt hours [i.e., (1,400 + 1,600 + 1,800) ÷ 12 = 400]. Therefore, for the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop and office building was 1,600 kilowatt hours [i.e., 1,200 + 400 = 1,600]. Because this 1,600 monthly kilowatt hour average applicable to the second solar installation exceeds by at least 50 percent the 1,000 monthly kilowatt hour average applicable to the first solar installation, taxpayer F has shown a substantial increase in electricity demand and the second solar installation may qualify as an independent installation.

- Different building(s) or structure(s). If the applied-for solar installation will not power any building or structure that is also being powered by another solar installation, or that was also being powered by another solar installation at some point during the 12-month period before the applied-for solar installation was placed in service, this is an indication that the solar installations may have a different electrical generation purpose.

EXAMPLE 9: Taxpayer G, a farmer, is awarded a solar energy system tax credit for a solar installation that provides power to G's equipment barn. Later, G installs a second solar installation that will only provide power to G's livestock building. Because the first solar installation only provides power to G's barn and the second solar installation only provides power to G's livestock building, this is an indication that each solar installation has a different electrical generation purpose. The second solar installation would be considered an independent installation, unless additional information shows the contrary to be true.

EXAMPLE 10: Taxpayer H, a multiple housing cooperative under Iowa Code chapter 499A, owns an apartment building with ten apartment units. In 2021, H installs solar energy property with a cost of $300,000 that will power the apartment building. The owner of each apartment unit submits a solar tax credit application for a solar installation claiming a proportionate share of H's qualifying expenditures for the solar energy property, which in this case is $30,000 per owner, and requesting an Iowa credit of $3,300 ($30,000 × 11%), for a sum total of $33,000 in tax credits. Since this building is organized as a multiple housing cooperative under Iowa Code chapter 499A, each apartment constitutes a building or structure and each owner's proportionate share of qualifying expenses incurred by the cooperative constitutes a solar installation paid by the owner. This is the first solar installation with respect to each of these apartments, so they are not being powered by another solar installation that received an Iowa tax credit. Therefore, this is an indication that each solar installation has a different electrical generation purpose. Each of the ten solar installations would be considered an independent installation, unless additional information shows the contrary to be true. The result would be the same if the building were organized as a horizontal property regime under Iowa Code chapter 499B. However, see Example 7 regarding apartment buildings not organized as a multiple housing cooperative or horizontal property regime.

2. Other criteria.

- Location. The department will consider the physical location of each solar installation. When two or more solar installations are in close physical proximity, this is an indication that the installations may not be independent installations. The farther in physical proximity the installations are, the stronger the likelihood that they are independent installations. Locating an installation at the same address or on the same or adjacent parcel as another installation is a stronger indication that the two installations are not independent installations than if they were located at different addresses or on nonadjacent parcels. The expansion in physical size or production capacity of an existing solar installation is an indication that the installations are not independent installations. If two or more solar installations are physically

attached or connected to the same building or structure, this is an indication that the installations are not independent installations.

EXAMPLE 11: Taxpayer Q submits a complete and timely solar energy system tax credit application for a solar installation located at an address that is adjacent to the address of prior solar installation for which taxpayer Q received a solar energy system tax credit award. Based on the information provided by the taxpayer, the department is unable to determine the electrical generation purpose of the solar installations. Without additional information, the proximity of the two solar installations supports a determination by the department that the second solar installation is not an independent installation.

- Billing. The department will consider the manner in which a utility company issues bills associated with solar installations. Even when a solar installation does not actually provide electricity to any buildings or structures that are also being powered by another solar installation, if a utility company issues bills associated with a solar installation under a net metering agreement in a manner that allows credits from the net outflow of one solar installation to be applied against the utility costs of buildings or structures that are powered by another solar installation, the department will evaluate the solar installations subject to the net metering agreement as if they were powering the same buildings or structures for purposes of determining electrical generation purpose in numbered paragraph 42.48(5)*"b"*(2)"1" above.

- Utility metering. The department will consider whether each solar installation is connected to a separate utility meter and the business reason, if any, for using separate utility meters. For purposes of this subrule, "utility meter" means a device installed by a utility company used to monitor the amount of electricity consumed or produced by a consumer. When a metering agreement requires a person to install two unidirectional meters, the set will be considered a single utility meter for purposes of this subrule. The department will not consider a measuring device installed and used by a person for personal monitoring of electricity production or consumption to be a "utility meter" for purposes of this subrule. This should not be interpreted to require a person to connect the person's solar installation to a utility provider's grid in order to be eligible for the tax credit.

- Payment for installation or service. The department will consider how expenses incurred for construction or servicing of a solar installation are paid. When expenses incurred for two or more solar installations are paid by related parties, it may indicate that the installations are not independent installations. However, the department may request additional information to evaluate the relationship between the person who pays for such expenses and the person who claims the tax credit.

- Contract terms. The department will consider the terms of installation and service contracts related to the solar installation and may require a person to provide installation and service contracts related to any prior solar installation for which the department has received a tax credit application. When contract terms indicate that the solar installations have been installed as or are serviced as a single, functional unit or system, the department will consider that as evidence that the installations are not independent installations.

- Timing of installation or application. The department will consider when the applied-for solar installation was placed in service and when a person submits the tax credit application as compared to other solar installations.

c. Safe harbor for solar installations that begin construction prior to June 1, 2021. For any solar installation for which the taxpayer begins construction prior to June 1, 2021, the taxpayer may rely on the factors in the prior version of paragraph 42.48(7)*"a"* in determining whether the solar installation is a separate and distinct installation. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

~~42.48(8)~~ 42.48(6) *Unavailable to those eligible for renewable energy tax credit.* A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422,476C) is not eligible for the solar energy system tax credit.

~~42.48(9)~~ 42.48(7) *Allocation of tax credit to owners of a business entity or beneficiaries of an estate or trust.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, the individual may claim the tax credit.

The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate, or trust shall be limited to $15,000 for installations placed in service in tax years 2012 and 2013 and $20,000 for installations placed in service in tax years beginning on or after January 1, 2014.

This rule is intended to implement Iowa Code section 422.11L as amended by 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.

ITEM 2. Rescind rule 701—52.44(422) and adopt the following **new** rule in lieu thereof:

701—52.44(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property described in Sections 48(a)(2)(A)(i)(II) and 48(a)(2)(A)(i)(III) of the Internal Revenue Code and located in Iowa. The credit is available according to the same requirements, conditions, and limitations as described in rule 701—42.48(422).

This rule is intended to implement Iowa Code section 422.33.

ITEM 3. Amend rule 701—58.22(422) as follows:

701—58.22(422) Solar energy system tax credit. Effective for installations placed in service during tax years beginning on or after January 1, 2014, a solar energy system tax credit ~~for financial institutions is~~ available for business property described in Sections 48(a)(2)(A)(i)(II) and 48(a)(2)(A)(i)(III) of the Internal Revenue Code and located in Iowa. ~~For information on property eligible for the credit, the calculation of the credit and applying for the credit, see rule 701—52.44(422).~~ The credit is available to financial institutions according to the same requirements, conditions, and limitations as described in rule 701—42.48(422).

This rule is intended to implement Iowa Code section ~~422.60 as amended by 2014 Iowa Acts, House File 2438, section 27, and 2014 Iowa Acts, House File 2473, section 78.~~ 422.60(12)*"a."*

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 Michael L. Fitzgerald, 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 February is 3.00%.

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.

TREASURER OF STATE(cont'd)

New official state interest rates, effective February 9, 2021, 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 .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .05%

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 Michael L. Fitzgerald, 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:

March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%
July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%
September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%
November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%
January 1, 2021 — January 31, 2021	2.75%
February 1, 2021 — February 28, 2021	3.00%
March 1, 2021 — March 31, 2021	3.00%

ARC 5475C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to electric utility service and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 20, "Service Supplied by Electric Utilities," Iowa Administrative Code.

UTILITIES DIVISION[199](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 476.2 and 476.6(8)"b."

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 476.

Purpose and Summary

The purpose of this rule making is to update the Board's electric utility service rules and establish requirements for the pass-through of federally approved electric transmission costs. The proposed amendments clarify Board rules regarding pass-through of energy costs to customers and simplify reliability requirements. In addition, the amendments remove electric cooperatives and municipal electric utilities from regulation under Chapter 20. The Board has proposed a new chapter, which was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5281C**, to regulate those utilities.

The Board issued an Order Commencing Rule Making on February 12, 2021. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2019-0020.

Fiscal Impact

The proposed updates of Chapter 20 do not significantly change the rules for rate-regulated electric utilities from current rules and so should not have a significant fiscal impact.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 20.

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 Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

April 13, 2021 1:30 to 4 p.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 **199—Chapter 20**, title, as follows:

SERVICE SUPPLIED BY ELECTRIC UTILITIES REQUIRED TO BE RATE-REGULATED

ITEM 2. Amend rule 199—20.1(476) as follows:

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers necessary to carry out the provisions of this law.

a. Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

~~The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.~~

b. Electric utilities with fewer than 10,000 customers subject to board regulation pursuant to Iowa Code section 476.1A are subject to the regulatory requirements set out in 199—Chapter 27 for electric cooperatives.

20.1(2) *Application of rules.* The rules shall apply to any electric utility required to be rate-regulated operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

a. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

b. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476).

c. The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

d. These rules shall in no way relieve any utility from any of its duties under the laws of this state.

20.1(3) and **20.1(4)** No change.

ITEM 3. Amend subrule 20.2(2) as follows:

20.2(2) *Tariffs to be filed with the board.* The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content

of tariffs shall be in accordance with these rules. A rate-regulated electric utility's current tariff will be made available through the board's electronic filing system.

~~Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.~~

ITEM 4. Amend subrule 20.3(8) as follows:

20.3(8) *Service areas.* Service areas are defined by the boundaries on service area maps. ~~Paper~~ Electronic maps are available for viewing during regular business hours at the board's offices ~~and available for purchase at the cost of reproduction~~. Maps are also available for viewing on the board's website. ~~These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.~~

ITEM 5. Amend subrule 20.3(9) as follows:

20.3(9) ~~*Petition for modification*~~ *Modification of service area and answers.*

a. An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

b. Any electric utility ~~or municipal corporation~~ may file a petition for modification of service area, which shall contain (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, ~~and~~ (3) a justification for the proposed service area modification, and (4) an electronic file, containing geospatial data, in a format compatible with geographic information system (GIS) software such as a shapefile file, geodatabase, or KML file, of the proposed service area boundaries. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 20.3(11)*"a"* shall be attached to the petition as an exhibit.

c. Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

d. ~~All parties shall file an~~ An answer ~~which complies~~ to a petition for a service area modification shall comply with ~~199—subrule 7.5(1)~~ 199—subrule 7.9(2).

e. Electric utilities may agree to service area modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be enforceable require board approval. The board shall approve a contract if the board finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected, will promote the efficient and economical use and development of the electric systems of the contracting utilities, and is in the public interest.

ITEM 6. Amend subrule 20.4(2) as follows:

20.4(2) *Customer contact employee qualifications.* Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

a. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov."

~~The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov."~~

~~The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: "If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov."~~

b. The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers ~~and no less than annually by all other electric utilities~~. ~~Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.~~

ITEM 7. Amend subparagraph **20.4(15)"d"(3)**, question 3, as follows:

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area ~~(see attached list)~~ or ~~visit humanrights.iowa.gov/dcaa/where-apply~~ contact the division of community action agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861. To prevent disconnection, you must contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

~~d. If you have additional questions, contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861.~~

ITEM 8. Amend subrule 20.8(1) as follows:

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations. A utility shall include in its safety program procedures for notifying the board and the public of an incident involving a component of a wind turbine, solar facility, storage facility, or any other generating facility where the incident has affected adjacent property owners or members of the public.

ITEM 9. Amend rule 199—20.9(476) as follows:

199—20.9(476) Electric energy ~~sliding scale or~~ automatic adjustment. ~~A rate-regulated utility's sliding scale or automatic~~ The electric energy adjustment of the unit charge ~~for electric energy~~ shall be an energy adjustment clause.

20.9(1) *Applicability.* A ~~rate-regulated~~ utility's ~~sliding scale or automatic~~ electric energy adjustment ~~of electric utility energy rates~~ shall recover from consumers only those costs which:

a. Are incurred in supplying energy;

b. Are beyond direct control of management;

c. Are subject to sudden important change in level;

d. Are an important factor in determining the total cost to serve; and

e. Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy adjustment clause ~~for rate-regulated utility~~.* Prior to ~~each billing cycle~~ any period in which a utility proposes to change the adjustment amount for each energy unit delivered to the customer, ~~a rate-regulated~~ the utility shall determine and file for board approval the adjustment amount to be charged for each energy unit ~~consumed~~ delivered under rates set by the board. The filing shall include all ~~journal entries,~~ invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, emission allowances, and other costs.

a. The utility shall keep and maintain journal entries ~~should reflect the following~~ to reflect a breakdown for each type of fuel: actual cost of fuel, transportation costs, and other costs. Items identified as other costs should be described and their inclusion as fuel costs ~~should be justified~~ must be approved by the board. The board may direct that journal entries be filed. The utility shall also file detailed supporting data:

~~1.~~ (1) To show the actual amount of sales of energy by month for which an adjustment was utilized, and

~~2.~~ (2) To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

~~*a.*~~ *b.* The energy adjustment shall provide for change of the price per ~~kilowatt hour consumed~~ kilowatt-hour delivered under rates set by the board based upon the formulas provided ~~below~~ in the utility's tariff. The energy adjustment factor shall be rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. The tariff shall define the components of the formula(s) and shall include reference to the specific accounts of the Uniform System of Accounts for each component.

(1) For each period as specified in the tariff, the calculation shall ~~be~~ include but not be limited to:

$$\cancel{E_0} = \frac{\cancel{EC_0 + EC_1}}{\cancel{EQ_0 + EQ_1}} \cancel{+} \frac{\cancel{A_1}}{\cancel{EJ_0 + EJ_1}} \cancel{- B}$$

~~E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.~~

~~EC_0 is the estimated expense for energy in the month during which E_0 will be used.~~

~~EC_1 is the estimated expense for energy in the month prior to the month of EC_0.~~

~~EQ_0 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which E_0 will be used.~~

~~EQ_1 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to EQ_0.~~

~~EJ_0 is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge (E_0) will be used in bill calculations.~~

~~EJ_1 is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of EJ_0.~~

~~A_1 is the beginning of the month energy cost adjustment account balance for the month of estimated consumption EJ_1. This would be the most recent month's balance available from actual accounting data.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

1. The estimated energy cost and revenues;

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2. The estimated electric energy to be delivered and entered in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which the energy adjustment charge will be used; and

3. The energy cost adjustment account balance.

(2) The base formula for the energy adjustment factor shall be:

Energy adjustment factor = (energy cost adjustment account balance + estimated energy costs and revenues) / estimated energy delivered

~~*b.*~~ *c.* The estimated energy cost ~~($EC_0 + EC_1$)~~ and revenues shall be the estimated cost and revenues associated with ~~EQ_0 and EQ_1 determined as the cost of~~:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects, the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph ~~20.9(2)*"b."*~~ 20.9(2)*"c."*

(5) The energy costs paid for energy purchased under arrangements or contracts for capacity and energy, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from ~~AEP~~ alternative energy production facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4)*"b."*

(10) Federal production tax credits unless the board approves different ratemaking treatment.

(11) Other costs and revenues as specified in the utility's tariff and approved by the board. For all other costs and revenues, the utility shall provide the type of cost, the dollar amount, and reference to the board order approving the cost to be included in the energy adjustment clause (EAC).

~~*c.*~~ *d.* The energy cost adjustment account balance ~~(A)~~ shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. ~~Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).~~ The calculation for the energy cost adjustment account balances shall include but is not limited to:

$$\cancel{D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]}$$

~~C_2 is the actual expense for energy, calculated as set forth in 20.9(2)*"b,"* in the month prior to EJ_1 of 20.9(2)*"a."*~~

~~J_2 is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.~~

~~Q_2 is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.~~

~~E_2 is the energy adjustment charge used for billing in the prior month.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

(1) The actual energy expense for the prior period and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts;

(2) The actual electric energy delivered for the prior period and recorded in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts; and

(3) The beginning energy cost adjustment account balance (overrecovered or underrecovered amount) for the current period.

~~*d.*~~ *e.* Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace ~~that~~ the energy normally received from nuclear sources. A surcharge would be added to each ~~kilowatt hour~~ kilowatt-hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

~~*e.*~~ *f.* A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

~~*f.*~~ *g.* ~~A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules~~ The energy adjustment clause factor may include other automatic adjustment mechanisms as approved by the board.

20.9(3) ~~*Optional energy clause for a rate-regulated utility which does not own generation*~~ *Utilities not making monthly changes to the adjustment amount.* ~~A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle, the rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The items identified as other costs should be described and their inclusion as energy costs should be justified. The utility shall also file detailed supporting data~~ Utilities that do not file monthly adjustments shall:

~~1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and~~

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~~2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.~~

~~*a.* The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:~~

$$\cancel{E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B}$$

~~E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.~~

~~C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.~~

~~Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

~~*b.* A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.~~

~~For a utility electing to use an energy cost adjustment account the calculation shall be:~~

$$\cancel{E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B}$$

~~E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.~~

~~C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.~~

~~Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.~~

~~A_2 is the end of the month energy cost adjustment account balance for the month of consumption J_2. This would be the most recent month's balance available from actual accounting data.~~

~~J_2, J_3 and J_4 are electric energy consumed under rates set by the board in the months corresponding to C_2, C_3 and C_4.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

~~*c.* The end of the month energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.~~

~~Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).~~

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$$\cancel{D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]}$$

~~C_2 is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.~~

~~J_2 is the electric energy consumed under jurisdictional rates in the prior month.~~

~~Q_2 is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.~~

~~E_2 is the energy adjustment charge used for billing in the prior month.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

~~*d.* A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.~~

~~*e.* A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.~~

a. File the information pursuant to subrule 20.9(2) on a quarterly basis.

b. File an annual reconciliation of the EAC factor and an update to the EAC factor. The date of the annual reconciliation and update shall be specified in the utility's tariff. The reconciliation shall follow the requirements of subrule 20.9(2).

c. Include a semiannual adjustment if the absolute value of the cumulative over recovery or under recovery amount is greater than 20 percent of the forecasted net recoverable energy costs for the EAC year. The semiannual adjustment filing shall be filed six months after the annual reconciliation and update filing and shall follow the requirements of subrule 20.9(2), but will be limited to the remaining months of the year. The semiannual factor updates may utilize updated forecasts for the costs and sales for the remainder of the year.

20.9(4) *Review of energy adjustment clause.* At least biennially, but no more than annually, the board ~~will~~ shall require each utility that owns generation and utilizes an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year. The utility shall include an explanation of and demonstrate how these invoices correspond to the energy adjustment clause calculations. The explanation shall include storage injections and withdrawals and average cost of fuel and transportation included in the energy adjustment clause calculations. The board will notify each utility by May 1 as to which two months' invoices will be required. ~~Two copies of these~~ These invoices shall be filed with the board no later than the subsequent November 1.

~~This rule is intended to implement Iowa Code section 476.6(12).~~

ITEM 10. Adopt the following **new** rule 199—20.16(476):

199—20.16(476) Exterior flood lighting.

20.16(1) *Newly installed lighting.* All newly installed public utility-owned exterior flood lighting shall be solid-state lighting or lighting with equivalent or better energy efficiency.

20.16(2) *In-service lighting replacement schedule.* In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure for any other reason, such as vandalism or storm damage.

20.16(3) *Efficacy standards.* Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

a. For fixtures, the mean lumens-per-watt lamp rating is greater than 100; or

b. The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or

c. The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights

Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-08 test procedures.

ITEM 11. Amend rule 199—20.18(476,478) as follows:

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) *Applicability.* This rule is applicable to ~~investor-owned~~ electric utilities ~~and electric cooperative corporations and associations operating within the state of Iowa~~ subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) *Purpose and scope.* ~~Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa.~~ The purpose of this rule is to establish ~~requirements for assessing the~~ standards of reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. ~~This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.~~

20.18(3) *General obligations.*

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

~~*d.* In appraising the reliability of the electric utility's transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.~~

~~*e.*~~ *d.* Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

~~*f.*~~ *e.* Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

~~*g.*~~ *f.* Any electric utility unable to comply with applicable provisions of this rule may file a waiver request pursuant to rule 199—1.3(17A,474,476).

20.18(4) *Definitions.* Terms ~~and formulas~~ when used in this rule are defined as follows:

"Customer" means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is provided. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

~~*"Customer average interruption duration index (CAIDI)"* means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.~~

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$$\cancel{\text{CAIDI}} = \frac{\cancel{\text{Sum of All Customer Interruption Durations}}}{\cancel{\text{Total Number of Customer Interruptions}}}$$

"Distribution system" means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

"Electric utility" means investor-owned electric utilities ~~and electric cooperative corporations and associations~~ owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the board's jurisdiction.

"GIS" means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

"Interrupting device" means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

"Interruption" means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer's private property;
5. Interruptions due to hazardous conditions located on the affected customer's private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer's equipment; the operation of a customer's equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

"Interruption duration" as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

"~~Interruption, momentary~~ Momentary interruption" means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

"~~Interruption, momentary~~ Momentary event interruption" means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

"~~Interruption, scheduled~~ Scheduled interruption" means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

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"~~Interruption, sustained~~ Sustained interruption" means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

"Loss of service" means the loss of electrical power, i.e., a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of "interruption."

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Metropolitan area" means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

~~*"Momentary average interruption frequency index (MAIFI)"* means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.~~

$$\cancel{\text{MAIFI}} = \frac{\cancel{\text{Total Number of Customer Momentary Interruptions}}}{\cancel{\text{Total Number of Customers Served}}}$$

"OMS" is a computerized outage management system.

"Operating area" means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

"Outage" means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

"Power quality" means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

~~*"Rural circuit"* means a circuit not defined as an urban circuit.~~

~~*"System average interruption duration index (SAIDI)"* means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.~~

$$\cancel{\text{SAIDI}} = \frac{\cancel{\text{Sum of All Customer Interruption Durations}}}{\cancel{\text{Total Number of Customers Served}}}$$

~~*"System average interruption frequency index (SAIFI)"* means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.~~

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$$\cancel{\text{SAIFI}} = \frac{\cancel{\text{Total Number of Customer Interruptions}}}{\cancel{\text{Total Number of Customers Served}}}$$

~~*"Total number of customers served"* means the total number of customers served on the last day of the reporting period.~~

~~*"Urban circuit"* means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.~~

20.18(5) *Record-keeping requirements.*

a. Required records ~~for electric utilities with over 50,000 Iowa retail customers~~.

(1) Each electric utility shall maintain a geospatial information system (GIS) and an outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction;
2. Operating area (if any);
3. Substation;
4. Circuit;
5. Number of interruptions in reporting period; and
6. Number of hours of interruptions in reporting period.

(2) Records on interruptions shall be sufficient to determine the following:

1. Starting date and time the utility became aware of the interruption;
2. Duration of the interruption;
3. Date and time service was restored;
4. Number of customers affected;
5. Description of the cause of the interruption;
6. Operating areas affected;
7. Circuit number(s) of the distribution circuit(s) affected;
8. Service account number or other unique identifier of each customer affected;
9. Address of each affected customer location;
10. Weather conditions at time of interruption;
11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
12. Whether the interruption was planned or unplanned.

(3) Each electric utility shall maintain as much information as feasible on momentary interruptions.

(4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.
2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.
3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.
4. The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.
5. Utilities may augment the code sets listed above to enhance tracking.

(5) An electric utility shall retain for seven years the records required by 20.18(5)*"a"*(1) through (4).

(6) Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.

~~*b. Required records for all other electric utilities.*~~

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~~(1) Each electric utility, other than those providing only wholesale electric service, shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per customer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other. Those electric utilities that provide only wholesale electric service shall provide their wholesale customers with the information necessary to allow those customers to ascertain the cause of power supply-related outages.~~

~~The category "scheduled" refers to interruptions resulting when a distribution transformer, line, or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.~~

~~The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the "power supplier" category.~~

~~The category "major storm" represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.~~

~~The "all other" category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.~~

~~(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 1730A-119, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.~~

~~(3) Each electric utility, other than those providing only wholesale electric service, shall also maintain and record data sufficient to enable it to compute systemwide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with "major storms" and once without.~~

~~*c.*~~ *b.* Each electric utility shall make its records of customer interruptions available to the board ~~as needed~~ upon request.

20.18(6) No change.

~~**20.18(7)** *Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.* Each electric utility with over 50,000 Iowa retail customers shall submit to the board on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:~~

~~*a. Description of service area.* Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.~~

~~*b. System reliability performance.*~~

~~(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.~~

~~(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.~~

~~(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual~~

~~report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and update as needed in subsequent reports.~~

~~*c. Reporting on customer outages.*~~

~~(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:~~

~~1. All Iowa customers, excluding major events.~~

~~2. All Iowa customers, including major events.~~

~~(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:~~

~~1. All Iowa customers, excluding major events.~~

~~2. All Iowa customers, including major events.~~

~~*d. Major event summary.* For each major event that occurred in the reporting period, the following information shall be provided:~~

~~(1) A description of the area(s) impacted by each major event;~~

~~(2) The total number of customers interrupted by each major event;~~

~~(3) The total number of customer-minutes interrupted by each major event; and~~

~~(4) Updated damage cost estimates to the electric utility's facilities.~~

~~*e. Information on transmission and distribution facilities.*~~

~~(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.~~

~~(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.~~

~~*f. Plans and status report.* A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.~~

~~*g. Capital expenditure information.* Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.~~

~~(1) Each electric utility shall report on an annual basis the total of:~~

~~1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.~~

~~2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.~~

~~(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in 20.18(7)*"g"*(1).~~

~~*h. Maintenance.* Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.~~

~~(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If~~

~~any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.~~

~~(2) Tree trimming.~~

~~1. The budget and expenditures described in 20.18(7)*"h"*(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.~~

~~2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the board in a request for waiver.~~

~~3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in 20.18(7)*"h"*(2)"1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.~~

~~*i.* The annual reliability report shall include the number of poles inspected, the number rejected, and the number replaced.~~

~~**20.18(8)** *Annual report for all electric utilities not reporting pursuant to 20.18(7).*~~

~~*a.* Each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan. The plan shall be updated not less than annually.~~

~~*b.* By April 1 of each year, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on the reliability indices in 20.18(5)*"b"*(3) for each of the five previous calendar years.~~

~~**20.18(9)**~~ **20.18(7)** *Inquiries about electric service reliability.*

~~*a.* For electric utilities with over 50,000 Iowa retail customers.~~ A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

~~*b.* Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.~~

ITEM 12. Amend subrule 20.19(1) as follows:

20.19(1) *Notification.* The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. For all utilities, loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. For utilities with 50,000 or more customers, loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

~~*c.* For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than six hours to 25 percent or more of the utility's customers;~~

~~*d.*~~ *c.* A major event as defined in subrule 20.18(4); or

~~*e.*~~ *d.* Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1)*"a"* ~~through *"d."*~~ and *"b."*

ITEM 13. Adopt the following **new** rule 199—20.21(476):

199—20.21(476) Transmission cost adjustment (TCA).

20.21(1) *Transmission cost adjustment.* Pursuant to Iowa Code section 476.6(8)*"b,"* public utilities may automatically adjust rates and charges to recover transmission-related costs incurred by or charged to the public utility consistent with a tariff or agreement that is subject to the jurisdiction of the Federal Energy Regulatory Commission, provided that a schedule showing the automatic adjustment of rates and charges is first filed with and approved by the board. Transmission cost adjustments shall be computed and tracked separately for each customer classification or grouping previously approved by the board and shall use the same unit of measure as the utility's tariffed rates. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board. If any eligible cost is recovered outside the TCA, the cost may not be recovered through the TCA until the cost is removed from its current recovery mechanism. All eligible costs shall be moved to the TCA during the utility's next rate case unless the utility elects to discontinue use of the TCA mechanism.

20.21(2) *TCA annual factor.* An annual TCA factor update shall be filed as a TF docket at least 30 days prior to the beginning of the utility's TCA year. The TCA update shall include information describing which eligible TCA costs are being recovered through the TCA and, if not recovered through the TCA, where eligible costs are being recovered. The annual TCA factors for each customer classification or grouping shall be based upon forecasted transmission costs allocated to Iowa customers, forecasted Iowa sales or demand, and allocation factors approved by the board. The forecasted allocation factors shall be based on a three-year average of the actual allocation factors for each of the three previous calendar years. For customers billed by kilowatt-hours, the factors shall be developed on a kilowatt-hour basis. For customers billed by kilowatt, the factors shall be developed on a kilowatt basis. In addition, the following is required to be included with this filing:

a. A listing of all transmission costs that are incurred by or charged to the public utility and are consistent with a tariff or agreement that is subject to the jurisdiction of the Federal Energy Regulatory Commission, detailing where each transmission cost is currently being recovered (e.g., base rates, TCA).

b. A time series analysis of each transmission cost eligible for inclusion in the TCA, detailing monthly cost fluctuations, beginning with the implementation of the utility's transmission rider.

20.21(3) *Annual reconciliation.* Within four months after the effective date of annual TCA factors, a utility shall file an annual reconciliation based upon actual costs and revenues attributed to Iowa customers for the prior calendar year. The annual reconciliation shall be filed in the same TF docket identified for the annual filing required in subrule 20.21(2). The reconciliation shall include updated allocators for each customer classification or grouping based on actual load data from the prior calendar year. The actual costs for the prior calendar year shall be allocated to each customer class based upon the updated allocation factors. The utility shall compare the actual transmission costs allocated to each customer class with the actual revenue billed through the TCA by customer class net of the prior year's reconciliation dollar amount for each customer class. Any resulting overcollection or undercollection for each class shall be divided by the forecasted sales or demand for each customer class for the remainder of the TCA period. The resulting adjustments shall be added to the effective TCA factors which were approved in the TCA annual factor filing under subrule 20.21(2). The adjusted TCA factor for customers billed by kilowatt-hours shall be developed on a kilowatt-hour basis, and for customers billed on a kilowatt basis, the adjusted TCA factor shall be developed on a kilowatt basis.

20.21(4) *Other adjustments to the TCA factor.* A utility may propose other adjustments to the TCA factor throughout the 12-month TCA period to assist with accurate recovery of forecasted costs and revenues, subject to board approval. Any midyear adjustments shall be filed in the same TF docket as the annual filing. If a utility proposes an adjustment to the TCA factor, other than the reconciliation required in subrule 20.21(3), the utility shall provide an explanation for the proposed adjustment and

provide information to support the proposed adjustment. For any customer billed by kilowatt-hours, the proposed adjustment shall be developed on a kilowatt-hour basis. For any customer billed on a kilowatt basis, the proposed adjustment shall be developed on a kilowatt basis.

20.21(5) *Quarterly informational filings.* By the end of the month following the end of each calendar quarter, the utility must file a report containing, at minimum, the current cumulative overcollection or undercollection balance, support for the overcollection or undercollection calculation, the total transmission cost for the current calendar year by category, and the supporting invoices and documentation for the most recent calendar quarter. The reports shall be filed in the same TF docket as the annual TCA filing.

20.21(6) *Semiannual transmission reports.* Each year at the beginning, and midpoint of a utility's TCA year, each utility shall file a report detailing the utility's transmission-related activities. These reports shall detail the utility's recent efforts to mitigate transmission costs and influence policy to the benefit of the utility and its ratepayers.

ARC 5474C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

Proposing rule making related to licensure and providing an opportunity for public comment

The Board of Veterinary Medicine hereby proposes to amend Chapter 6, "Application for Veterinary Licensure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

This proposed rule making updates the fee schedule for veterinarians by adding a new application fee for license by verification. The fee is $50.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

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 no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.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 action is proposed:

Amend rule 811—6.2(169) as follows:

811—6.2(169) Fee schedule for veterinarians. The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. However, the state fees may be waived for qualifying military service personnel upon request. Examination fees shall be nontransferable from one examination to another.

The fee for the NAVLE, which is utilized by the board as a part of the licensure process, shall be the fee charged that year by NBVME, plus an administrative fee payable to the board.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

License—application fee	$50
NAVLE examination fee	set by NBVME
Board administrative fee for NAVLE	$25
State veterinary examination fee	set by board
State veterinary administration fee	set by board
Triennial license	$60
Late renewal penalty	$100
License by endorsement—application fee	$50
License by verification—application fee	$50
Reactivation fee for lapsed or inactive license	$100
Reinstatement fee	$100

VETERINARY MEDICINE BOARD[811](cont'd)

Duplicate license	$15
Temporary permit	$35
Temporary permit application fee	$15
Official licensure verification	$15
Charge for insufficient funds or returned checks	$25
Senior student certificate	$0

This rule is intended to implement Iowa Code sections 169.5 and 169.12.

ARC 5480C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to apprenticeships

The Economic Development Authority hereby amends Chapter 12, "Apprenticeship Training Program," and Chapter 13, "Future Ready Iowa Registered Apprenticeship Development Fund," and adopts new Chapter 14, "Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15C.

Purpose and Summary

2020 Iowa Acts, House File 2629, created new Iowa Code section 15C.2, the Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program, and directed the Authority to promulgate rules. The purpose of the program is to encourage sponsors of apprenticeship programs with 20 or fewer apprentices to maintain programs in high-demand occupations. 2020 Iowa Acts, House 2629, also amended Iowa Code chapter 15B and section 15C.1 to exclude apprenticeship sponsors from participating in more than one apprenticeship program administered by the Authority in the same fiscal year.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5279C**. No public comments were received. One change from the Notice has been made to correct a misspelled word in paragraph 14.4(2)"e."

Adoption of Rule Making

This rule making was adopted by the Authority on January 22, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. No funds have been appropriated for the program.

Jobs Impact

After analysis and review of this rule making, the Authority has determined that, if the Legislature appropriates funds for the program, this rule making will positively impact jobs in the state of Iowa by implementing the administration of a program designed to support apprentices and businesses in high-demand jobs.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 31, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 12.5(4):

12.5(4) An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15C is ineligible for financial assistance under this chapter during the same fiscal year.

ITEM 2. Amend paragraph **13.4(1)"b"** as follows:

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15B or section 15C.2 is ineligible for financial assistance under this chapter during the same fiscal year.

ITEM 3. Adopt the following **new** 261—Chapter 14:

CHAPTER 14
FUTURE READY IOWA EXPANDED REGISTERED
APPRENTICESHIP OPPORTUNITIES PROGRAM

261—14.1(15C) Purpose. Pursuant to Iowa Code section 15C.2, the authority is directed to administer a future ready Iowa expanded registered apprenticeship opportunities program. The purpose of the program is to provide financial assistance to encourage apprenticeship sponsors of apprenticeship programs with 20 or fewer apprentices to maintain apprenticeship programs in high-demand occupations.

261—14.2(15C) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Agreement" means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

"Applicant" means a new or existing apprenticeship sponsor located in Iowa that has established an apprenticeship program involving an eligible apprenticeable occupation that is located in Iowa and approved by the United States Department of Labor, Office of Apprenticeship.

"Apprentice" means a person who is at least 16 years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered in Iowa with the United States Department of Labor, Office of Apprenticeship.

"Apprenticeable occupation" means an occupation approved for apprenticeship by the United States Department of Labor, Office of Apprenticeship.

"Apprenticeship program" means a program registered with the United States Department of Labor, Office of Apprenticeship, which includes terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

"Apprenticeship sponsor" means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated, which is registered with or approved by the United States Department of Labor, Office of Apprenticeship.

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

"Director" means the director of the authority.

"Eligible apprenticeable occupation" means an apprenticeable occupation identified by the workforce development board or a community college, pursuant to Iowa Code section 84A.1B, as a high-demand job, after consultation with the authority.

"Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority and includes but is not limited to assistance in the form of a reimbursement grant of $1,000 per apprentice in an eligible apprenticeable occupation.

"Program" means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

261—14.3(15C) Program description.

14.3(1) *Amount, form, and timing of assistance.*

a. Financial assistance received by an apprenticeship sponsor under this chapter shall be used only for the cost of conducting and maintaining an apprenticeship program.

b. Applicants are eligible to apply for grant awards annually based on the number of apprentices in an eligible apprenticeable occupation who are active in their program or who have completed a registered apprenticeship program in the calendar year prior to the applicant window. Applicants will receive $1,000 per active or completed apprentice in their program, up to $20,000.

14.3(2) *Application.*

a. *Forms.* All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority's website:

Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
515.348.6200
iowaeda.com

b. *Application requirements.* An apprenticeship sponsor seeking financial assistance under these rules shall provide the following information to the authority:

(1) The address and federal apprentice registration number of each apprentice who was actively training in the apprenticeship program as of December 31 of the year prior to submitting the application or completed training during the calendar year prior to submitting the application.

(2) The address and a description of the physical location where in-person training is conducted.

(3) A certification of the apprenticeship sponsor's training standards as most recently approved by the United States Department of Labor, Office of Apprenticeship.

(4) A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the United States Department of Labor, Office of Apprenticeship, unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment.

(5) A program budget including how financial assistance awarded under the program will be used.

(6) Any other information the authority reasonably requires to determine eligibility and to make award determinations.

c. *Application period.* Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar year following the start of the fiscal year. The authority may adjust these dates under extenuating circumstances and will notify affected parties. The authority may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the authority's website.

d. *Complete application required.* An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided to the authority.

14.3(3) *Application review.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the authority in any given fiscal year, authority staff will make

recommendations to the director as to allocation of available funding based on the scoring criteria described in subrule 14.4(2). The authority may deny applications for incompleteness or because of insufficient funds.

261—14.4(15C) Program eligibility, application scoring, and awards.

14.4(1) *Program eligibility.*

a. To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor has an apprenticeship program with at least one eligible apprenticeable occupation.

(2) Twenty or fewer apprentices are registered in the apprenticeship program as of December 31 of the calendar year prior to the date the authority receives the eligible apprenticeship sponsor's application. Apprentices are considered registered in the program as of December 31 if they were actively training as of December 31 or completed training during the calendar year prior to the date the authority receives the apprenticeship sponsor's application.

(3) More than 70 percent of the applicant's apprentices are residents of Iowa, and the remainder of the applicant's apprentices are residents of states contiguous to Iowa. In determining the number of apprentices in an applicant's apprenticeship program for the purposes of determining the percentage of Iowa residents, the authority may calculate the average number of apprentices in the program within the most recent two-year period.

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15B or section 15C.1 is ineligible for financial assistance under these rules during the same fiscal year.

c. An apprenticeship sponsor who trains through a lead apprenticeship sponsor that qualifies for financial assistance under Iowa Code chapter 15B is ineligible to receive financial assistance under these rules.

14.4(2) *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

a. *Budget and costs.* The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

b. *Application of financial assistance.* The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

c. *Local support.* The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers that may benefit from the apprenticeship program. (maximum 10 points)

d. *Additional funding.* The authority will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

e. *Certification of worker safety.* The applicant has not violated state or federal statutes, rules or regulations, including environmental and worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

f. *Certification of employment at an Iowa work site.* The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

14.4(3) *Financial assistance awards.*

a. Director approval. The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

b. Disbursement of funds. The authority will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the authority pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the authority with confirmation of expenses and the authority must confirm that all terms for financial assistance have been met.

c. Form of financial assistance. The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

d. Use of funds. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

261—14.5(15C) Agreement required.

14.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

14.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

14.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement Iowa Code section 15C.2.

[Filed 1/25/21, effective 3/31/21]
[Published 2/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.

ARC 5481C

NURSING BOARD[655]

Adopted and Filed

Rule making related to nursing practice for registered nurses/licensed practical nurses

The Board of Nursing hereby rescinds Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code, and adopts a new Chapter 6 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 152.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

Chapter 6 governs the minimum standards of practice for registered nurses (RNs) and licensed practical nurses (LPNs). The chapter had not been reviewed in its totality for many years. Accordingly,

the chapter was reviewed as a whole and is being rescinded and replaced with a new Chapter 6 in order to make changes to both phrasing and organization in an effort to bring the chapter in line with modern practices and terminology.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 9, 2020, as **ARC 5172C**. A public hearing was held on September 29, 2020, at 9 a.m. at the Board's Office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa.

The Board received a number of comments on this rule making through email and one at the hearing. Two comments suggested revisions to allow nurses to delegate tasks to unlicensed assistive personnel so long as, in the professional judgment of the delegating nurse, the task poses minimal risk to the patient, even if the patient may not be in stable condition. The Board agreed with this comment and revised paragraphs 6.2(7)"e" and 6.3(9)"e" to add the phrase "in the professional judgment of the delegating nurse." Two comments asserted that the rule for delegating to emergency medical services (EMS) personnel was unclear and may require nurses to check the credentials of every EMS personnel prior to delegating tasks. The Board agreed this was not the intention of the rule and revised subrule 6.2(8) to clarify the standards for delegating to EMS personnel. Several comments requested clarity on the role of LPNs in certain non-acute care settings, particularly regarding performing the initial assessment. The Board agreed to rephrase the rule and revised subparagraphs 6.3(11)"a"(1), 6.3(11)"a"(2), and 6.3(11)"d"(1) to confirm that the RN must always perform the initial assessment and the LPN is responsible for requesting RN consultation as needed.

The Board received one comment requesting that these rules include guidance on treating patients with medical cannabis. The Board declined, finding that the request is premature and that the rules already require all nurses to be trained, competent, and educated in a task prior to performing it. This would apply with equal force to nurses assisting in the medical cannabidiol (CBD) program. One comment requested that the Board utilize an older version of the definition of "ARNP." The Board declined, because both Chapter 7 and this chapter use the definition of "ARNP" contained in the Iowa Code. Two comments requested that physician assistants be added to the list of providers who can supervise LPNs in certain acute and non-acute care settings. The Board declined, finding that the LPN supervision rules have long been in place and the Board has never had any complaints that excluding physician assistants caused practice problems.

One comment requested that a physician be present at the rules stakeholder meeting held prior to instituting this rule-making action, specifically requesting that physicians be present for all Board rules meetings relating to ARNPs. The Board notes that this chapter does not relate to ARNPs, nor do ARNPs or nurses participate in Board of Medicine rules stakeholder meetings. This chapter was proposed in the Notice of Intended Action after a stakeholder meeting that included the professional association, as well as nurses from nearly every practice setting, in accordance with all requirements.

One comment requested the Board to specifically define "significant change" in patient condition. The Board declined, because what is "significant" could vary dramatically depending on the patient, the setting, the ailment, etc.

Multiple comments related to the "proximate area" requirement for LPNs in acute and certain non-acute care settings. The chapter updates the definition of "proximate area" from a skills-based standard to a settings-based standard to allow facilities to easily determine which settings require a provider to be in the proximate area of an LPN. The Board believes that this change will provide greater clarity and no further changes are needed. One comment requested that "receiving" and "implementing" be placed in the same subrule when discussing the nursing process. The Board declined, because the rule is structured to match the flow of the nursing process, which involves receiving orders, seeking additional guidance or asking questions if necessary, and then proceeding with implementation.

One comment requested that nurses not be required to show competence prior to using new equipment. The Board declined, because patient safety demands that nurses be trained and competent prior to using new technology on a patient. One comment requested that "supervision" be specifically

defined to include being "on-call." The Board's definition of "supervision" allows for direct and indirect supervision, and the Board believes the definition allows for a nurse to exercise judgment in what the appropriate level of supervision is, based on each setting and patient's circumstances. One comment questioned whether the phrase "evidence-based practices" is vague. The Board notes that the phrase is taught in nursing schools, nurses understand what it means, and the purpose is to ensure nurses have sound justifications for their actions. Finally, one comment requested the rules expressly prohibit unlicensed assistive personnel from functioning as RNs. The Board declined, because Iowa Code section 147.86 already makes it a misdemeanor to practice nursing without a license and any similar rule would be duplicative.

Adoption of Rule Making

This rule making was adopted by the Board on January 20, 2021.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 31, 2021.

The following rule-making action is adopted:

Rescind 655—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
NURSING PRACTICE FOR REGISTERED NURSES/LICENSED PRACTICAL NURSES

655—6.1(152) Definitions.

"Advanced registered nurse practitioner" or *"ARNP"* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who is licensed by the board as an advanced registered nurse practitioner.

"Board" as used in this chapter means the Iowa board of nursing.

"Competence" means having sufficient knowledge, judgment, and skill to perform a specific function.

"Expanded intravenous therapy certification course" means the Iowa board of nursing course required for licensed practical nurses to perform procedures related to the expanded scope of practice of intravenous therapy.

"Initial assessment" means the systematic collection of data to determine the patient's health status and plan of care, and to identify any actual or potential health problems, which is performed upon the patient's first arrival or admission to a unit or facility or upon any significant changes in the patient's status.

"Midline catheter" means a long peripheral catheter in which the distal end resides in the mid to upper arm, but the tip terminates no further than the axilla.

"Nursing diagnosis" means a judgment made by a registered nurse, following a nursing assessment of an individual or group about actual or potential responses to health problems, which forms the basis for determining effective nursing interventions.

"Nursing facility" means an institution as defined in Iowa Code chapter 135C. This term does not include acute care settings.

"Nursing process" means ongoing assessment, nursing diagnosis, planning, intervention, and evaluation.

"Peripheral intravenous catheter" means a catheter three inches or less in length.

"Peripherally inserted central catheter" means a soft flexible central venous catheter inserted into an extremity and advanced until the tip is positioned in the vena cava.

"Proximate area" means sufficiently close in time and space, within the same building, to provide timely in-person assistance.

"Supervision" means directly or indirectly observing a function or activity and taking reasonable steps to ensure the nursing care being provided is adequate and delivered appropriately.

"Unlicensed assistive personnel" is an individual who is trained to function in an assistive role to the registered nurse and licensed practical nurse in the provision of nursing care activities as delegated by the registered nurse or licensed practical nurse.

655—6.2(152) Standards of nursing practice for registered nurses.

6.2(1) A registered nurse shall recognize and understand the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the registered nurse is determined by the nurse's education, experience, and competency and the rules governing nursing. The scope of practice of the registered nurse shall not include those practices requiring the knowledge and education of an advanced registered nurse practitioner.

6.2(2) The registered nurse shall demonstrate professionalism and accountability by:

a. Demonstrating honesty and integrity in nursing practice.

b. Basing nursing decisions on nursing knowledge, judgment, skills, the needs of patients, and evidence-based practices.

c. Maintaining competence through ongoing learning, application of knowledge, and applying evidence-based practices.

d. Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.

e. Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the practice of nursing.

f. Assuming responsibility for the nurse's own decisions and actions.

g. Wearing identification which clearly identifies the nurse as a registered nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.2(3) The registered nurse shall utilize the nursing process by:

a. Conducting a thorough nursing assessment based on the patient's needs and the practice setting.

b. Applying nursing knowledge based on the biological, psychological, and sociocultural aspects of the patient's condition.

c. Detecting inaccurate or missing patient information.

d. Receiving a physician's, ARNP's, or other health care provider's orders and seeking clarification of orders when needed.

e. Formulating independent nursing decisions and nursing diagnoses by using critical thinking, objective findings, and clinical judgment.

f. Planning nursing care and nursing interventions by establishing measurable and achievable outcomes, consistent with the patient's overall health care plan.

g. Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.

h. Implementing treatment and therapy as identified by the patient's overall health care plan.

i. Monitoring patients and attending to patients' health care needs.

j. Identifying changes in the patient's health status, as indicated by pertinent signs and symptoms, and comprehending the clinical implications of those changes.

k. Evaluating continuously the patient's response to nursing care and other therapies, including:

(1) Patient's response to interventions.

(2) Need for alternative interventions.

(3) Need to communicate and consult with other health team members.

(4) Need to revise the plan of care.

l. Documenting nursing care accurately, thoroughly, and in a timely manner.

m. Communicating and consulting with other health team members regarding the following:

(1) Patient concerns and special needs.

(2) Patient status and progress.

(3) Patient response or lack of response to interventions.

(4) Significant changes in patient condition.

(5) Interventions which are not implemented, based on the registered nurse's professional judgment, and providing:

1. A timely notification to the physician, ARNP, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;

2. Documentation in the medical record that the physician, ARNP, or other health care provider was notified and reason(s) for not implementing the order; and

3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders which were not implemented.

n. Revising plan of care as needed.

o. Providing a safe environment for the patient.

p. Providing comprehensive health care education to the patient and others, according to nursing standards and evidence-based practices.

6.2(4) The registered nurse shall act as an advocate for the patient(s) by:

a. Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.

b. Identifying patient needs.

c. Attending to patient concerns or requests.

d. Promoting a safe environment for the patient, others, and self.

e. Maintaining appropriate professional boundaries.

6.2(5) The registered nurse shall apply the delegation process when delegating to another registered nurse or licensed practical nurse by:

a. Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence. The initial assessment and ongoing application of the nursing process shall only be provided by the registered nurse.

b. Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.

c. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the delegatee.

d. Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.

e. Evaluating patient outcomes as a result of the delegation process.

f. Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.

g. Retaining accountability for properly implementing the delegation process.

h. Promoting a safe and therapeutic environment by:

(1) Providing appropriate monitoring and surveillance of the care environment.

(2) Identifying unsafe care situations.

(3) Correcting problems or referring problems to appropriate management level when needed.

6.2(6) The registered nurse shall not delegate the following intravenous therapy procedures to a licensed practical nurse:

a. Initiation and discontinuation of a midline catheter or a peripherally inserted central catheter (PICC).

b. Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.

c. Administration of blood and blood products, vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.

d. Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

e. Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

6.2(7) The registered nurse shall apply the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

a. Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.

b. Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.

c. Ensuring the task does not exceed the scope of practice of a licensed practical nurse.

d. Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.

e. Verifying that, in the professional judgment of the delegating nurse, the task poses minimal risk to the patient.

f. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the UAP.

g. Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.2(8) Subrule 6.2(7) does not apply to delegations to certified emergency medical care personnel who are employed by or assigned to a hospital or other entity in which health care is ordinarily provided, so long as:

a. The nurse has observed the patient;

b. The delegated task is a nonlifesaving procedure; and

c. The task is within the delegatee's job description.

6.2(9) Additional acts which may be performed by, and specific nursing practices for, registered nurses:

a. A registered nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.

b. A registered nurse may staff an authorized ambulance, rescue, or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service and the Iowa department of public health bureau of emergency and trauma services in accordance with the form adopted by the Iowa department of public health. An exception to this subrule is the registered nurse who accompanies and is responsible for a transfer patient.

c. A registered nurse, while circulating in the operating room, shall provide supervision only to persons in the same operating room.

This rule is intended to implement Iowa Code section 147A.12 and chapters 136C and 152.

655—6.3(152) Standards of nursing practice for licensed practical nurses.

6.3(1) The licensed practical nurse shall recognize and understand the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the licensed practical nurse is determined by the nurse's education, experience, and competency and the rules governing nursing.

6.3(2) The licensed practical nurse shall demonstrate professionalism and accountability by:

a. Demonstrating honesty and integrity in nursing practice.

b. Basing nursing decisions on nursing knowledge and skills, the needs of patients, and licensed practical nursing standards.

c. Maintaining competence through ongoing learning and application of knowledge in practical nursing practice.

d. Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.

e. Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the course of practical nursing practice.

f. Assuming responsibility for the nurse's own decisions and actions.

g. Wearing identification which clearly identifies the nurse as a licensed practical nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.3(3) The licensed practical nurse, practicing under the supervision of a registered nurse, advanced registered nurse practitioner (ARNP), or licensed physician, consistent with the accepted and prevailing practices and practice setting, may participate in the nursing process by:

a. Participating in nursing care, health maintenance, patient teaching, evaluation and collaborative planning and rehabilitation to the extent of the licensed practical nurse's education, experience, and competency.

b. Conducting a thorough, ongoing nursing assessment based on the patient's needs after the initial assessment is completed by the registered nurse.

c. Assisting the supervising registered nurse, ARNP, or physician in planning for patient care by identifying patient needs and goals.

d. Demonstrating attentiveness and providing patient surveillance and monitoring.

e. Seeking clarification of orders when needed.

f. Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.

g. Implementing treatment and therapy as identified by the patient's overall health care plan.

h. Documenting nursing care accurately, thoroughly, and in a timely manner.

i. Evaluating continuously the patient's response to nursing care and other therapies, including:

(1) Patient's response to interventions.

(2) Need for alternative interventions.

(3) Need to communicate and consult with other health team members.

(4) Need to revise the plan of care.

j. Collaborating and communicating relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:

(1) Patient concerns and special needs.

(2) Patient status and progress.

(3) Patient response or lack of response to interventions.

(4) Significant changes in patient condition.

(5) Interventions which are not implemented, based on the licensed practical nurse's professional judgment, and providing:

1. A timely notification to the physician, ARNP, registered nurse, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;

2. Documentation in the medical record that the physician, ARNP, registered nurse, or other health care provider was notified and reason(s) for not implementing the order; and

3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders which were not implemented.

k. Providing a safe environment for the patient.

l. Participating in the health care education of the patient and others, according to nursing standards and evidence-based practices.

6.3(4) A licensed practical nurse shall not perform any activity requiring the knowledge and education of a registered nurse, including but not limited to:

a. Initiating a procedure or therapy that requires the knowledge and education level of a registered nurse.

b. Performing an assessment of a procedure or therapy that requires the knowledge and education level of a registered nurse.

c. Initiating or administering blood components.

d. Initiating or administering medications requiring the knowledge and education level of a registered nurse.

6.3(5) A licensed practical nurse, under the supervision of a registered nurse, may engage in the limited scope of practice of intravenous therapy. The licensed practical nurse shall be educated and have documentation of competency in the limited scope of practice of intravenous therapy. Limited scope of practice of intravenous therapy may include:

a. Addition of intravenous solutions without adding medications to established peripheral intravenous sites.

b. Monitoring and regulating the rate of nonmedicated intravenous solutions to established peripheral intravenous sites.

c. Administration of maintenance doses of analgesics via the patient-controlled analgesia pump set at a lock-out interval to established peripheral intravenous sites.

d. Discontinuation of peripheral intravenous therapy.

e. Administration of a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, to an established peripheral lock, in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit.

6.3(6) In a certified end-stage renal dialysis unit, nursing tasks which may be delegated by a registered nurse to a licensed practical nurse, for the sole purpose of hemodialysis treatment, include:

a. Initiation and discontinuation of the hemodialysis treatment utilizing any of the following established vascular accesses: central line catheter, arteriovenous fistula, and graft.

b. Administration, during hemodialysis treatment, of local anesthetic prior to cannulation of the vascular access site.

c. Administration of prescribed dosages of heparin solution or saline solution utilized in the initiation and discontinuation of hemodialysis.

d. Administration, during hemodialysis treatment via the extracorporeal circuit, of the routine intravenous medications erythropoietin, Vitamin D Analog, intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, and iron, excluding any iron preparation that requires a test dose. The registered nurse shall administer the first dose of erythropoietin, Vitamin D Analog, antibiotics, and iron.

6.3(7) The licensed practical nurse shall act as an advocate for the patient by:

a. Always practicing under the supervision of a registered nurse, ARNP, or physician.

b. Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.

c. Identifying patient needs.

d. Attending to patient concerns or requests.

e. Promoting a safe environment for the patient, others, and self.

f. Maintaining appropriate professional boundaries.

6.3(8) The licensed practical nurse shall apply the delegation process when delegating to another licensed practical nurse by:

a. Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.

b. Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence.

c. Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.

d. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the delegatee.

e. Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.

f. Evaluating patient outcomes as a result of the delegation process.

g. Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.

h. Retaining accountability for properly implementing the delegation process.

i. Promoting a safe and therapeutic environment by:

(1) Providing appropriate monitoring and surveillance of the care environment;

(2) Identifying unsafe care situations; and

(3) Correcting problems or referring problems to appropriate management level when needed.

6.3(9) The licensed practical nurse shall apply the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

a. Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.

b. Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.

c. Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.

d. Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.

e. Verifying that, in the professional judgment of the delegating nurse, the task poses minimal risk to the patient.

f. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the UAP.

g. Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.3(10) The licensed practical nurse may provide nursing care in an acute care setting so long as a registered nurse, ARNP, or physician is present in the proximate area. Acute care settings requiring a registered nurse, ARNP, or physician to be in the proximate area include but are not limited to:

a. Units where care of the unstable, critically ill, or critically injured individual is provided.

b. General medical-surgical units.

c. Emergency departments.

d. Operating rooms. (A licensed practical nurse may assist with circulating duties when supervised by a registered nurse circulating in the same room.)

e. Postanesthesia recovery units.

f. Hemodialysis units.

g. Labor and delivery/birthing units.

h. Mental health units.

i. Diagnostic testing centers.

j. Surgery centers.

k. Outpatient procedure centers.

6.3(11) The licensed practical nurse may provide nursing care in a non-acute care setting. However, a registered nurse, ARNP, or physician must be present in the proximate area if the licensed practical nurse provides nursing care in the following non-acute care settings:

a. Community health settings, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care in the home setting under the supervision of a registered nurse or a physician. However, the initial assessment shall be provided by the registered nurse, and the licensed practical nurse is responsible for requesting nurse consultation as needed.

(2) The licensed practical nurse shall be permitted to provide supportive and restorative care in a camp setting under the supervision of a registered nurse or a physician. However, the initial assessment shall be performed by the registered nurse, and the licensed practical nurse is responsible for requesting registered nurse consultation as needed.

b. Schools, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care to a specific student in the school setting in accordance with the student's health plan when under the supervision of, and as delegated by, the registered nurse employed by the school district.

(2) The licensed practical nurse shall be permitted to provide supportive and restorative care in a Head Start program under the supervision of a registered nurse or a physician if the licensed practical nurse was in this position prior to July 1, 1985.

c. Occupational health settings.

d. Correctional facilities, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care in a county jail facility or municipal holding facility operating pursuant to Iowa Code chapter 356. The supportive and restorative care provided by the licensed practical nurse in such facilities shall be performed under the supervision of a registered nurse. However, the initial assessment shall be performed by the registered nurse, and the licensed practical nurse is responsible for requesting registered nurse consultation as needed. The registered nurse shall be available 24 hours per day by teleconferencing equipment.

(2) Reserved.

e. Community mental health settings.

f. Health care clinics, except:

(1) The licensed practical nurse shall be permitted to conduct height, weight and hemoglobin screening and record responses to health questions asked in a standardized questionnaire under the supervision of a registered nurse in a Women, Infants and Children (WIC) clinic. A registered nurse employed by or under contract to the WIC agency will assess the competency of the licensed practical nurse to perform these functions and will be available for consultation. The licensed practical nurse is responsible for performing under the scope of practice for licensed practical nurses and requesting registered nurse consultation as needed. This exception to the proximate area requirement is limited to WIC clinics and to the services permitted in this subrule.

(2) Reserved.

6.3(12) A licensed practical nurse may be permitted to supervise other licensed practical nurses or unlicensed assistive personnel, pursuant to Iowa Code section 152.1(5)*"b,"* in the following practice settings, in accordance with the following:

a. A licensed practical nurse working under the supervision of a registered nurse may be permitted to supervise in an intermediate care facility for persons with an intellectual disability or in a residential health care setting.

b. A licensed practical nurse working under the supervision of a registered nurse who is in the proximate area may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse.

c. A licensed practical nurse working under the supervision of a registered nurse may supervise in a nursing facility if the licensed practical nurse completes the National Healthcare Institute's Supervisory Course for Iowa's Licensed Practical Nurses within 90 days of employment in a supervisory role. Documentation of the completion of the course shall be maintained by the licensed practical nurse. A licensed practical nurse shall be entitled to supervise without completing the course if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. A licensed practical nurse who is currently enrolled as a full-time student in a registered nurse program and is scheduled to

graduate within one year is not required to complete the course. If the licensed practical nurse does not obtain a registered nurse license within one year, the licensed practical nurse must take the course to continue supervisory duties.

6.3(13) A licensed practical nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.

6.3(14) A licensed practical nurse shall be permitted to perform, in addition to the functions set forth in subrule 6.3(5), procedures related to the expanded scope of practice of intravenous therapy upon completion of the board-approved expanded intravenous therapy certification course and in accordance with the following:

a. To be eligible to enroll in the course, the licensed practical nurse shall:

(1) Hold a current unrestricted Iowa license or an unrestricted license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

(2) Have documentation of 1,040 hours of practice as a licensed practical nurse.

(3) Be practicing in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit whose policies allow the licensed practical nurse to perform procedures related to the expanded scope of practice of intravenous therapy.

b. The course must be offered by an approved Iowa board of nursing provider of nursing continuing education. Documentation of course completion shall be maintained by the licensed practical nurse and employer.

c. The board-approved course shall incorporate the responsibilities of the licensed practical nurse when providing intravenous therapy via a peripheral intravenous catheter, a midline catheter and a peripherally inserted central catheter (PICC) to children, adults and elderly adults.

d. Upon completion of the course, when providing intravenous therapy, the licensed practical nurse shall be under the supervision of a registered nurse. Procedures which may be performed if delegated by the registered nurse are as follows:

(1) Initiation of a peripheral intravenous catheter for continuous or intermittent therapy using a catheter not to exceed three inches in length.

(2) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of premixed electrolyte solutions or premixed vitamin solutions. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.

(3) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of solutions containing potassium chloride that do not exceed 40 meq per liter and that do not exceed a dose of 10 meq per hour. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.

(4) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse. The first dose shall be administered by the registered nurse.

(5) Maintenance of the patency of a peripheral intravenous catheter, midline catheter, and a PICC line with a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed by a registered pharmacist or registered nurse.

(6) Changing the dressing of a midline catheter and a PICC line per sterile technique.

e. Intravenous therapy procedures which shall not be delegated by the registered nurse to the licensed practical nurse are as follows:

(1) Initiation and discontinuation of a midline catheter or a PICC.

(2) Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.

(3) Administration of blood and blood products, vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.

(4) Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

(5) Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

These rules are intended to implement Iowa Code chapter 152.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.

ARC 5482C

NURSING BOARD[655]

Adopted and Filed

Rule making related to waivers

The Board of Nursing hereby amends Chapter 15, "Waiver and Variance Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.9A.

State or Federal Law Implemented

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

Purpose and Summary

During the 2020 Legislative Session, the Legislature passed 2020 Iowa Acts, House File 2389, which made various amendments to Iowa Code chapter 17A. In section 10 of House File 2389, Iowa Code section 17A.9A was amended to remove references to "variances," and the Iowa Code section now only uses the term "waiver" throughout. This rule making updates the Board's waiver rules to similarly remove references to "variances" and only use the term "waiver."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5282C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 20, 2021.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 31, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **655—Chapter 15**, title, as follows:

WAIVER ~~AND VARIANCE~~ RULES

ITEM 2. Amend rule 655—15.1(147,ExecOrd8,78GA,ch1176) as follows:

655—15.1(147,ExecOrd8,78GA,ch1176) Definition. For purposes of this chapter, a "waiver ~~or variance~~" means action by a division board~~,~~ which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a waiver and a variance.~~

ITEM 3. Amend rule 655—15.4(147,ExecOrd8,78GA,ch1176), introductory paragraph, as follows:

655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule 655—15.6(147,ExecOrd8,78GA,ch1176), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

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ARC 5483C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to waivers and petitions

The Plumbing and Mechanical Systems Board hereby amends Chapter 30, "Continuing Education for Plumbing and Mechanical Systems Professionals," Chapter 31, "Plumbing and Mechanical Systems Board—Waivers or Variances from Administrative Rules," and Chapter 36, "Plumbing and Mechanical Systems Board—Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 105 and 272C and chapter 17A as amended by 2020 Iowa Acts, House File 2389.

Purpose and Summary

These amendments largely make changes across several chapters of the Iowa Administrative Code that are necessary to comply with and implement 2020 Iowa Acts, House File 2389. House File 2389 removed the term "variance" in relation to the phrase "waiver or variance." House File 2389 also clarified how and when to notify the Administrative Code Editor and Administrative Rules Coordinator of waivers.

The amendment in Item 1 clarifies that a continuing education course cannot be repeated for credit in the same renewal period.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5278C**. The Department received five public comments. Two commenters fully supported the proposed amendments. One commenter wanted clarification on the proposed amendments, which was provided. One commenter provided comments irrelevant to the proposed amendments. One commenter questioned whether the same CEU course could be repeated if the licensee was attempting to reinstate a lapsed license. The Board's response to the last commenter is that the same CEU course cannot be repeated in the same renewal period even if a licensee is reinstating a lapsed license. Licensees will have the option to submit a waiver request if this presents a hardship due to the lack of available CEU courses.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 26, 2021.

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 Board for a waiver of the discretionary provisions, if any, pursuant to the Board's waiver provisions contained in 641—Chapter 31.

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 31, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 30.2(4) as follows:

30.2(4) It is ~~the~~ each licensee's responsibility ~~of each licensee~~ to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements. Licensees may attend a continuing education course more than once during a continuing education compliance period. However, licensees who attend a course more than once may not count the approved hours for that course toward the applicable continuing education requirement more than once during the continuing education compliance period.

ITEM 2. Amend **641—Chapter 31**, title, as follows:

PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS ~~OR VARIANCES~~ FROM ADMINISTRATIVE RULES

ITEM 3. Amend rule 641—31.1(17A,105,272C) as follows:

641—31.1(17A,105,272C) Definitions. For purposes of this chapter:

"Board" means the Iowa plumbing and mechanical systems board.

"Waiver ~~or variance~~" means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a waiver and a variance.~~

ITEM 4. Amend rule **641—31.4(17A,105,272C)**, catchwords, as follows:

641—31.4(17A,105,272C) Criteria for waiver ~~or variance~~.

ITEM 5. Amend rule 641—31.5(17A,105,272C) as follows:

641—31.5(17A,105,272C) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

31.5(1) *License application.* If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question and submitted to the ~~board administrator~~ board's executive officer.

31.5(2) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case, and submitted to the ~~board administrator~~ board's executive officer.

31.5(3) *Other.* If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board's ~~administrator~~ executive officer.

ITEM 6. Amend rule 641—31.12(17A,105,272C) as follows:

641—31.12(17A,105,272C) ~~Summary reports~~ Reports to administrative code editor and administrative rules coordinator. ~~Semiannually~~ Within 60 days after granting or denying a petition for waiver, the board shall ~~prepare a summary report identifying the~~ submit the information described in this rule, which may be encompassed by the board's written decision on the petition for waiver, to the administrative code editor and the administrative rules coordinator through the Internet site established under Iowa Code section 17A.9A(4):

31.12(1) The rule or rules for which a waiver ~~has been~~ was sought;

31.12(2) Whether the waiver was granted or denied~~, the~~;

31.12(3) The number of times a waiver was granted or denied for each rule~~, a~~;

31.12(4) A citation to the statutory provisions implemented by ~~these~~ the rules~~, and a~~ for which waiver was sought;

31.12(5) A general summary of the reasons justifying the board's ~~actions~~ action on the waiver ~~requests.~~ request; and

31.12(6) If both applicable and practicable, ~~the report shall detail~~ information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and affected the general

applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 7. Amend rule 641—36.4(17A) as follows:

641—36.4(17A) Board consideration.

36.4(1) *Information considered.* ~~Within 14 days after the filing of a petition, the board must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee.~~ Upon request by the petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. Any person may submit comments to the board on the substance of the petition. The board may also solicit comments from any person on the substance of the petition. ~~Also, comments on the substance of the petition may be submitted to the board by any person.~~

36.4(2) *Time for decision.* Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to petitioner.

36.4(3) *Denial on the basis of form is without prejudice.* Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

36.4(4) *Notification to administrative rules coordinator and administrative rules review committee.* Within 14 days after the filing of a petition, the board must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Within 14 days after granting or denying a petition, the board must notify the administrative rules coordinator and the administrative rules review committee of the disposition of the petition.

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ARC 5484C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Rule making related to update of rules

The Real Estate Appraiser Examining Board hereby amends Chapter 1, "Organization and Administration," Chapter 3, "General Provisions for Examinations," Chapter 4, "Associate Real Property Appraiser," Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," Chapter 7, "Disciplinary Actions Against Certified and Associate Appraisers," and to adopt new Chapter 13, "Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions," and to amend Chapter 18, "Waivers and Variances from Rules," Chapter 20, "Contested Cases," Chapter 22, "Petition for Rule Making," Chapter 25, "Public Records and Fair Information Practices," and Chapter 26, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Military Service Members," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 543D.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

These amendments implement changes recommended and required by 2020 Iowa Acts, House File 2389 and House File 2627.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5261C**. A public hearing was held on November 24, 2020, at 10 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. Two written comments were received.

The first written comment was from the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council. The ASC stated there were concerns with the Board maintaining compliance with Policy Statement 5: Reciprocity due to the inclusion of the one-year requirement in rule 193F—26.4(272C). The ASC stated that the Board should consider removing the requirement for one year as it relates to licensure, registration, or certification in another jurisdiction in paragraph 26.4(1)"b" due to the fact that the federal Dodd-Frank Act is very specific on reciprocity requirements and that having the one-year requirement would put Iowa out of compliance and could cause the state's appraiser program to be derecognized. The ASC also had a concern with subrule 5.4(2), commenting that once an associate appraiser is registered with Iowa, all experience must be supervised per The Appraisal Foundation's Appraiser Qualifications Board (AQB) criteria and that the Board should consider adding the words "before receiving an associate credential in Iowa" to numbered paragraphs 5.4(2)"b"(2)"1" and 6.4(2)"b"(2)"1."

The second written comment was from the Iowa Division of Banking's Finance Bureau Chief, who requested that rule 193F—5.4(543D) be broadened to include certified general appraisers.

The following changes were made since publication of the Notice. The Board further amended the introductory paragraph of rule 193F—5.4(543D) to add the words "or general" before "real property appraiser" and further amended numbered paragraphs 5.4(2)"b"(2)"1" and 6.4(2)"b"(2)"1" to add the phrase "before receiving an associate credential in Iowa" after the words "The experience was attained." The Board also removed the words "for at least one year" from new paragraph 26.4(1)"b." In addition, the references to 2020 Iowa Acts, House File 2627, were removed from citations in subrule 3.4(1) and rule 193F—18.13(17A,543D) since the provisions in the legislation are now codified in the 2021 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Board on January 27, 2021.

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 Board 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 31, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.2(3) as follows:

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D and 193F—Chapter 17, the board shall secure approval of the superintendent if the proposed action is or may be anticompetitive, as provided in 193F—Chapter 17. As used in this chapter, "discretionary" shall include any action that is authorized but not expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rule making, declaratory orders, or waivers ~~or variances~~ from rules, rule making, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

ITEM 2. Amend rule 193F—1.22(272C,543D) as follows:

193F—1.22(272C,543D) Process for board review of eligibility.

~~**1.22(1)** Before~~ As more fully set forth in, as described in, and in accordance with 193F—Chapter 13, before applying for registration as an associate appraiser or certification as a certified appraiser, a person with a criminal history ~~or other background matters~~ that may impair registration or certification may request that the board evaluate the prospective applicant's criminal history ~~or other background matters by submitting a written request to the board~~. ~~Upon receiving such a request, the board may request additional supporting materials.~~

~~**1.22(2)** Requests will be processed under the same standards as applications for registration or certification in order to inform the prospective applicant whether any of the disclosed information is or may be a bar to future registration or certification. In responding to a request, the board shall address only the offenses or matters listed in the request. The board's response will be based upon the laws, rules, and guidelines in effect at the time of the board's response, including the guidelines and policies promulgated by the AQB or ASC.~~

~~**1.22(3)** If the information supplied is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board's response shall not be binding on a future board.~~

ITEM 3. Amend rule 193F—3.4(543D) as follows:

193F—3.4(543D) Application for certification or registration. Applicants for certification or registration must successfully complete the appropriate examination.

3.4(1) All initial applications for certification or associate registration shall be made on forms provided by the board. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. Specific examples of grounds for denial include knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or participating in any form of fraud or misrepresentation; the revocation of another professional license; or, subject to the limitations and processes set forth in Iowa Code section 272C.15 and corresponding implementing rules located at 193F—Chapter 13, a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to

the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others. The board may also deny an application based on disciplinary action taken against an associate appraiser registration.

3.4(2) and **3.4(3)** No change.

ITEM 4. Amend subrule 4.1(5) as follows:

4.1(5) *Registration denial.* The board may deny an application for registration as an associate appraiser on any ground identified in 193F—subrule 3.4(1) or on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 7.

ITEM 5. Amend rule 193F—5.4(543D) as follows:

193F—5.4(543D) Supervised experience required for initial certification. ~~All~~ Except as otherwise permitted herein, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified residential or general real property appraiser pursuant to the provisions of 193F—Chapter 15.

5.4(1) No change.

5.4(2) *Exceptions.* Applicants for certified residential real property certification in Iowa may utilize experience obtained in the absence of registration as an associate real property appraiser under the following circumstances:

a. Subject to any requirements or limitations established by applicable federal authorities, including the AQB and ASC, or applicable federal law, rule, or policy, hours qualifying for experience in any jurisdiction, including in a bordering state, will be considered qualifying hours for experience in Iowa without board approval or authorization, as long as the applicant is able to establish by clear and convincing evidence all of the following:

(1) A majority of the applicant's total qualifying experience hours are completed in Iowa under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

(2) The qualifying hours obtained in another jurisdiction and claimed as experience hours in Iowa were completed in a jurisdiction under the direct supervision of an active certified real estate appraiser in that jurisdiction as required by the AQB and the jurisdiction's laws, rules, or policies.

(3) The nature of the experience attained in another jurisdiction is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

~~*a.*~~ *b.* ~~Applicants for initial certification in Iowa who request that the board approve~~ Requests for experience performed in the absence of registration as an associate real property appraiser ~~may file an application for approval on a form provided~~ shall be made on forms prescribed by the board. ~~The burden shall be on the applicant to establish by clear and convincing evidence all of the following:~~

(1) The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

1. The experience is qualifying experience under the substantive and documentation standards of the ~~Appraiser Qualifications Board~~ AQB and ~~Appraisal Subcommittee~~ ASC.

~~(2)~~ 2. Denial of the application would impose an undue hardship on the applicant.

~~(3)~~ 3. The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

~~(4)~~ 4. Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

~~(5)~~ 5. A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as an associate real property appraiser under the direct supervision of a certified real property appraiser.

~~*b.*~~ (2) Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

~~(1)~~ 1. The experience was attained before receiving an associate credential in Iowa in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.

~~(2)~~ 2. The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

ITEM 6. Amend rule 193F—6.4(543D) as follows:

193F—6.4(543D) Supervised experience required for initial certification. ~~All~~ Except as otherwise permitted herein, all experience required to obtain certification as a certified general real property appraiser pursuant to Iowa Code section 543D.9 shall be performed under the direct supervision of a certified general real property appraiser pursuant to the provisions of 193F—Chapter 15.

6.4(1) No change.

6.4(2) *Exceptions.* Applicants for certified general real property certification in Iowa may utilize experience obtained in the absence of registration as an associate real property appraiser under the following circumstances.

a. Subject to any requirements or limitations established by applicable federal authorities, including the AQB and ASC, or applicable federal law, rule, or policy, hours qualifying for experience in any jurisdiction, including a bordering state, will be considered qualifying hours for experience in Iowa without board approval or authorization, as long as the applicant is able to establish by clear and convincing evidence all of the following:

(1) A majority of the applicant's total qualifying experience hours are completed in Iowa under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

(2) The qualifying hours obtained in the jurisdiction and claimed as experience hours in Iowa were completed in another jurisdiction under the direct supervision of an active certified real estate appraiser in that jurisdiction as required by the AQB and the jurisdiction's laws, rules, or policies.

(3) The nature of the experience attained in another jurisdiction is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

~~*a.*~~ *b.* ~~Applicants for certified general real property certification in Iowa who request that the board approve~~ Requests for experience performed in the absence of registration as an associate real property appraiser ~~may file an application for approval on a form provided~~ shall be made on forms prescribed by the board. ~~The burden shall be on the applicant to establish by clear and convincing evidence all of the following:~~

(1) The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

1. The experience is qualifying experience under the substantive and documentation standards of the ~~Appraiser Qualifications Board~~ AQB and ~~Appraisal Subcommittee~~ ASC.

~~(2)~~ 2. Denial of the application would impose an undue hardship on the applicant.

~~(3)~~ 3. The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

~~(4)~~ 4. Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

~~(5)~~ 5. A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant under the direct supervision of a certified general real property appraiser.

~~*b.*~~ (2) Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

~~(1)~~ 1. The experience was attained before receiving an associate credential in Iowa in a jurisdiction that, at the time, did not require direct supervision or register associate real property appraisers or otherwise offer a category of certification.

~~(2)~~ 2. The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

ITEM 7. Amend subrule 7.3(11) as follows:

7.3(11) *Conviction of a crime.*

a. Conviction, in this state or any other jurisdiction, of any felony ~~related~~ offense that directly relates to the profession, or of any crime which is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others shall be deemed ~~substantially~~ directly related to the practice of real property appraising. A certified copy of the ~~record~~ final order or judgment of conviction or plea of guilty in this state or in another jurisdiction shall be conclusive evidence of the conviction. "Conviction" shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, or not entered, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which the conviction occurred, or if the offense is committed in this state, the offense would be a felony, without regard to its designation elsewhere. An offense directly relates to the profession if either:

(1) The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or

(2) The circumstances under which an offense was committed are circumstances customary to the profession.

b. Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.

ITEM 8. Adopt the following **new** 193F—Chapter 13:

CHAPTER 13
USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

193F—13.1(272C) Definitions. For the purposes of these rules, the following definitions shall apply:

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

"Conviction or convicted" includes all convictions regardless of whether classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred. "Conviction" includes a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the practice of the profession. A conviction is directly related to the practice of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

"License or licensure," as the term is used in this chapter, includes a registration as an associate appraiser, original certification as a certified residential real property appraiser or certified general real

property appraiser, upgrade from a certified residential real property appraiser to a certified general real property appraiser, reciprocal license, temporary practice permit, or any other license or certification issued by the board.

193F—13.2(272C) License application.

13.2(1) *Disqualifying offense determination.* If an applicant for licensure elects not to petition the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application. An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance. Upon request of the board's executive officer, an applicant with convictions must submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete. An applicant is strongly encouraged to submit all evidence of rehabilitation that the applicant wishes to be considered by the board as part of the license application. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated. Any application fees paid will not be refunded if the license is denied.

13.2(2) *Time and manner of decision.* The board may make a decision in accordance with normal application processing timelines after discussing the petition for eligibility determination at a board meeting, in closed session, or may authorize staff to make decisions regarding potentially disqualifying offenses.

193F—13.3(272C) Eligibility determination.

13.3(1) *Eligibility determination.* An individual who has not yet submitted a completed license application may petition the board for an eligibility determination of whether one or more of the individual's convictions are disqualifying offenses that would prevent the individual from being licensed. A petitioner may submit a petition for eligibility determination at any time prior to applying for a license. An applicant for licensure is not required to petition the board for an eligibility determination prior to applying for a license. To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner must submit all of the following:

a. A completed eligibility determination form, which is available on the board's website;

b. The complete criminal record for each of the petitioner's convictions;

c. A personal statement regarding whether each conviction directly relates to the practice of the profession;

d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

e. Payment of a nonrefundable fee in the amount of $25.

13.3(2) *Time and manner of decision.* The board has 30 days from receiving a petition for eligibility determination, or until the next regularly scheduled board meeting, whichever is later, to make a decision. The board may make a decision after discussing the petition for eligibility determination at a board meeting, in closed session, or may authorize staff to make decisions on petitions for eligibility determinations or license applications. A written decision will be sent to the petitioner or applicant by regular mail and, if an email address was provided, by email.

13.3(3) *Inaccurate or incomplete information.* If the information supplied in connection with a petition for eligibility determination is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board's eligibility determination shall not be binding on a future board.

193F—13.4(272C) Substance of decision. In reviewing a petition for eligibility determination or a license application involving potentially disqualifying offenses, the board will determine whether any of the convictions are disqualifying offenses in the following manner.

13.4(1) *No disqualifying offenses.*

a. If the board finds that none of the convictions disclosed in an eligibility determination petition are disqualifying offenses, the board will issue a written decision informing the petitioner that the disclosed convictions will not be grounds for license denial.

b. If the board finds that none of an applicant's convictions disclosed in a license application are disqualifying offenses, the applicant's convictions will not form the basis of any denial.

c. Notwithstanding the foregoing, an applicant with no disqualifying convictions must still meet all other requirements to be eligible for licensure and may be denied a license on other grounds.

13.4(2) *Disqualifying offense.* If one or more convictions are disqualifying offenses, the board will determine whether the petitioner or applicant has established rehabilitation by clear and convincing evidence utilizing the following factors:

a. The nature and seriousness of the crime for which the applicant was convicted.

b. The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of Iowa Code section 709.4, a sexually violent offense as defined in Iowa Code section 229A.2, dependent adult abuse in violation of Iowa Code section 235B.20, or a forcible felony as defined in Iowa Code section 702.11, and the applicant has not been convicted of another crime after release from incarceration.

c. The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

d. The age of the applicant at the time the offense was committed.

e. Any treatment undertaken by the applicant.

f. Whether a certificate of employability has been issued to the applicant pursuant to Iowa Code section 906.19.

g. Any letters of reference submitted on behalf of the applicant.

h. All other relevant evidence of rehabilitation and present fitness of the applicant.

13.4(3) *Petitioner or applicant rehabilitated.*

a. If the board finds that the petitioner established rehabilitation for all disqualifying offenses disclosed in an eligibility determination petition, the board will issue a written decision informing the petitioner that the disclosed convictions will not be grounds for denial if the petitioner later submits a completed license application.

b. If the board finds that the applicant established rehabilitation for all disqualifying offenses, the applicant's convictions will not form the basis of any denial.

c. Notwithstanding the foregoing, an applicant who demonstrated rehabilitation for all disqualifying convictions must still meet all other requirements to be eligible for licensure and may be denied a license on other grounds.

13.4(4) *Petitioner or applicant not rehabilitated.* If the board finds the petitioner or applicant failed to demonstrate rehabilitation for all disqualifying offenses, the board will issue a written decision informing the petitioner or applicant that one or more convictions are grounds for license denial. The board's written decision will include all of the following:

a. The convictions that are disqualifying;

b. A written determination as to how each disqualifying offense is encompassed by a publicly available list identifying the convictions that may disqualify an applicant from receiving a license;

c. A written determination that each disqualifying offense directly relates to the profession;

d. A written finding regarding each rehabilitation factor specified in subrule 13.4(2);

e. The earliest date the petitioner or applicant may submit a new petition for eligibility determination or license application;

f. A statement indicating that evidence of rehabilitation may be considered upon reapplication, including any specific evidence the board would find persuasive on reapplication, if any; and

g. Information regarding how to appeal the decision and have the matter set for hearing.

193F—13.5(272C) Appeal. A petitioner or applicant may appeal a determination of ineligibility, or the denial of a license application, in the manner and time frame set forth in the board's written decision. A timely appeal will cause a nondisciplinary license denial contested case proceeding as provided in rule 193F—20.39(546,543D,272C) to be initiated. The board's rules governing nondisciplinary license denial contested case hearings will apply unless otherwise specified in this rule. Failure to timely appeal will result in the board's written decision becoming a final order.

13.5(1) A petitioner or applicant must appeal a determination of ineligibility or the denial of a license application in order to exhaust administrative remedies.

13.5(2) A file-stamped copy of the final order or judgment of conviction or plea of guilty constitutes conclusive evidence of a conviction.

13.5(3) The board shall have the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense by a preponderance of the evidence. Once established, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

13.5(4) A petitioner or applicant who is aggrieved or adversely affected by a final decision of the board rendered following a nondisciplinary hearing following a nondisciplinary license denial hearing must initiate further appeal to the superintendent in accordance with 193F—Chapter 17 in order to exhaust administrative remedies.

13.5(5) A petitioner or applicant may only seek judicial review of a determination of ineligibility or license application denial after the issuance of a final order following a contested case proceeding and following any appeal to or review by the superintendent, if taken or initiated within applicable time frames.

13.5(6) Judicial review of final agency action shall be in accordance with Iowa Code section 17A.19.

193F—13.6(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapter 272C.

ITEM 9. Amend **193F—Chapter 18**, title, as follows:

WAIVERS ~~AND VARIANCES FROM RULES~~

ITEM 10. Amend rule 193F—18.1(17A,543D) as follows:

193F—18.1(17A,543D) Definitions. For purposes of this chapter, "a waiver ~~or variance~~" means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a "waiver" and a "variance."~~

ITEM 11. Amend rule 193F—18.4(17A,543D), introductory paragraph, as follows:

193F—18.4(17A,543D) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule 193F—18.6(17A,543D), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

ITEM 12. Amend subrule 18.11(2) as follows:

18.11(2) The board chair, or vice chair if the chair is unavailable, may rule on a petition for waiver ~~or variance~~ if (a) the petition was not filed in a contested case, (b) the ruling would not be timely if made at the next regularly scheduled board meeting, and (c) the ruling can be based on board precedent or a reasonable extension of prior board action on similar requests.

ITEM 13. Amend subrule 18.11(5) as follows:

18.11(5) This rule on interim rulings does not apply if the waiver ~~or variance~~ was filed in a contested case.

ITEM 14. Amend rule 193F—18.13(17A,543D) as follows:

193F—18.13(17A,543D) Summary reports. ~~Semiannually, the board shall prepare a summary report identifying~~ When the board grants or denies a waiver, within 60 days thereof the board shall submit the information required by this rule to the Internet site devised by the administration rules coordinator pursuant to Iowa Code section 17A.9A(4) to identify rules for which a petition for a waiver has been granted or denied and make this information available to the public. The required information, some of which may be generated by the Internet site, includes the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the ~~report~~ board shall ~~detail~~ include information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of waivers has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 15. Amend subrule 20.21(1) as follows:

20.21(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than ten days prior to the hearing date. A prehearing conference shall be scheduled not less than five business days prior to the hearing date. The board shall set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference shall be given by the board to all parties. For good cause the presiding officer may permit ~~variances~~ waivers, in whole or in part, from this rule.

ITEM 16. Amend subrule 22.4(2) as follows:

22.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition or adopted a rule on the subject of the petition if the petition is not required to be filed according to the procedure in Iowa Code section 17A.4(1). Service of the written notice shall be sent to the email address provided by the petitioner unless the petitioner specifically requests a mailed copy. Petitioner shall be deemed notified of the denial or granting of the petition on the date when the board emails or delivers the required notification to petitioner.

ITEM 17. Adopt the following **new** rule 193F—22.5(17A):

193F—22.5(17A) Submission to administrative rules review committee.

22.5(1) Following the board's receipt of a petition, the board will submit a copy of the petition to the administrative rules review committee.

22.5(2) Following the board's disposition of a petition, the board will submit a copy of the written notice documenting the board's disposition of the petition to the administrative rules review committee. Notwithstanding the foregoing, if, in response to a petition, the board institutes rule-making proceedings on the subject of the petition, the filing of a notice of intended action shall satisfy the requirement that the board notify the administrative rules review committee of the disposition of the petition.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 18. Amend rule 193F—25.3(17A,22) as follows:

193F—25.3(17A,22) Requests for access to records.

25.3(1) No change.

25.3(2) *Office hours.* Open records shall be made available for in-person examination and copying during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday.

25.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by facsimile, email, or other electronic means or by telephone. The board shall post information for making such requests in a manner reasonably calculated to apprise the public of that information. Requests shall identify the particular record sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, email address, and telephone number of the person requesting the information to facilitate the board's response, unless other arrangements are made to permit production to a person wishing to remain anonymous. A person shall not be required to give a reason for requesting an open record.

25.3(4) and **25.3(5)** No change.

25.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere. If feasible, the custodian of a record may provide for the electronic examination and copying of a public record in lieu of requiring in-person examination and copying of a public record.

25.3(7) No change.

ITEM 19. Amend subrule 25.14(7) as follows:

25.14(7) Waivers ~~and variances~~. Requests for waivers ~~and variances~~, board proceedings and rulings on such requests, and reports prepared for the administrative rules committee and others.

ITEM 20. Amend **193F—Chapter 26**, title, as follows:

MILITARY SERVICE, VETERAN RECIPROCITY, AND ~~SPOUSES OF ACTIVE DUTY MILITARY SERVICE MEMBERS~~ LICENSURE OF PERSONS LICENSED IN OTHER JURISDICTIONS

ITEM 21. Adopt the following **new** definition of "Issuing jurisdiction" in rule **193F—26.1(272C)**:

"Issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

ITEM 22. Rescind the definition of "Spouse" in rule **193F—26.1(272C)**.

ITEM 23. Amend rule 193F—26.3(272C) as follows:

193F—26.3(272C) Veteran ~~and spouse of active duty military service member~~ reciprocity.

26.3(1) A veteran ~~or spouse~~ with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran ~~or spouse~~ must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran ~~or spouse~~ under this rule shall be given priority and shall be expedited.

26.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) ~~or spouse of an active duty member of the military forces of the United States~~.

26.3(3) to **26.3(5)** No change.

26.3(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a nondisciplinary license denial contested case ~~(administrative hearing)~~ proceeding as provided in rule 193F—20.39(546,543D,272C) and may participate in ~~a contested case~~ the hearing by telephone. A request for a contested case proceeding shall be made within 30 days of issuance of the board's decision. The ~~provisions of 193F—Chapter 20 shall~~ board's rules governing nondisciplinary

license denial contested case hearings will apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 24. Adopt the following **new** rule 193F—26.4(272C):

193F—26.4(272C) Licensure of persons licensed in other jurisdictions.

26.4(1) An individual who establishes residency in this state or who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state may apply for licensure under this rule on forms provided by the board. A certification or registration shall be issued if all of the following conditions are met:

a. The person is currently licensed, certified, or registered by at least one other issuing jurisdiction in the profession or occupation applied for with a substantially similar scope of practice and is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration. A license, certificate, or registration issued by another jurisdiction that is classified as a licensed residential real property credential or with a scope of practice of a licensed residential real property appraiser, as defined by the AQB criteria other applicable federal law, rule, or policy, shall not be considered a profession or occupation with a substantially similar scope of practice as it relates to a certification or registration as an associate real property appraiser, certified residential real property appraiser, or a certified general real property appraiser.

b. The person has been licensed, certified, or registered by the other issuing jurisdiction forming the basis of the application.

c. When the person was licensed by the other issuing jurisdiction forming the basis of the application, the issuing jurisdiction imposed minimum educational and experience requirements, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction. Generally, given federal mandates, the minimum educational and experience requirements to become certified as a real estate appraiser are substantially the same nationwide within the applicable classification and scope of practice.

d. The person previously passed an AQB-approved examination as required by the other issuing jurisdiction for licensure, certification, or registration.

e. The person has not had a license, certificate, or registration revoked and has not voluntarily surrendered a license, certificate, or registration in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the appropriate licensing board shall determine if the cause for the action was corrected and the matter resolved. If the licensing board determines that the matter has not been resolved by the jurisdiction imposing discipline, the licensing board shall not issue or deny a license, certificate, or registration to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the appropriate licensing board shall not issue or deny a license, certificate, or registration to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees. The fees for applying for licensure under this rule shall be the same as the fees for reciprocal licensure, including as required by rules 193F—10.1(543D), 193F—12.1(543D), and 193F—12.3(543D).

i. The person does not have a criminal history that would prevent the person from holding the license, certificate, or registration applied for in this state.

26.4(2) An individual applying for licensure under this rule must provide, as applicable, proof of current residency in the state of Iowa or proof of the military member's official permanent change of station to the state of Iowa.

a. Proof of residency may include, by way of example:

(1) Residential mortgage, lease, or rental agreement;
(2) Utility bill;
(3) Bank statement;
(4) Pay check or pay stub;
(5) Property tax statement;
(6) A federal or state government document; or
(7) Any other document that reliably confirms Iowa residency.

b. Proof of permanent change of station to the state of Iowa includes documentation issued by the appropriate branch of the military requiring a permanent change of station or otherwise indicating or demonstrating a permanent change of station has occurred.

26.4(3) In order to be considered a sufficient application, an application for licensure under this rule must contain or disclose all of the information referred to or required by subrule 26.4(1) and be accompanied by all applicable fees, proof or documentation required by subrule 26.4(2) or otherwise required in the forms provided by the board, and, if applicable, the submission of fingerprints and an appropriate authorization of release as may be necessary to facilitate the board's completion of a criminal history check and any corresponding fee.

26.4(4) The board shall make the determination of whether to issue a certificate or registration under this rule based on information supplied by the applicant in the application and on such additional information as the board may acquire, including information or verification from other jurisdictions.

26.4(5) A person issued a certification or registration under this rule shall be subject to the laws regulating the person's practice in this state, including Iowa Code chapter 543D, the administrative rules of the board, and the Uniform Standards of Professional Appraisal Practice, and is subject to the jurisdiction of the board.

26.4(6) An applicant who is aggrieved by the board's decision to deny an application for a license under this rule may request a nondisciplinary license denial contested case hearing as provided in rule 193F—20.39(546,543D,272C) and may participate in the hearing by telephone. A request for a nondisciplinary license denial contested case hearing shall be made within 30 days of issuance of the board's decision.

[Filed 1/29/21, effective 3/31/21]
[Published 2/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.

ARC 5485C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to disclosure of patient records

The Board of Veterinary Medicine hereby amends Chapter 12, "Standards of Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

This amendment allows veterinarians to disclose patient records when the law authorizes or requires them to disclose such information.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5297C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 28, 2021.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

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 31, 2021.

The following rule-making action is adopted:

Amend subrule 12.4(2), introductory paragraph, as follows:

12.4(2) *Patient records.* Veterinary medical records are an integral part of veterinary care. Medical records are the property of the veterinary practice. Each licensed veterinarian shall maintain for at least five years an easily retrievable record for each patient that receives veterinary services. The record must be available for inspection by the client during normal business hours. The information within veterinary medical records is privileged and confidential and shall not be released except by court order, a public health emergency, ~~or~~ consent of the client, or as otherwise authorized by law. The licensed veterinarian in charge shall provide a copy of the complete record to the client not later than two business days after the licensed veterinarian or practice receives from the client a request for the record. A licensed veterinarian or veterinary practice may have an additional three business days to provide a copy of

nondigital diagnostic images. The licensed veterinarian may charge reasonable and customary fees for the copying of records.

[Filed 1/29/21, effective 3/31/21]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.

ARC 5486C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to notification of availability of unemployment insurance

The Director of the Workforce Development Department hereby amends Chapter 22, "Employer Records and Reports," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

Purpose and Summary

New rule 871—22.19(96) is adopted because the U.S. Department of Labor has added a requirement as a result of the pandemic, which is included in Unemployment Insurance Program Letter (UIPL) No. 13-20, that states must require employers to notify their employees of the availability of unemployment insurance (UI) upon separation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5128C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 5127C** on the same date. 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 of the Department on January 28, 2021.

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 May 26, 2021, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making action is adopted:

Adopt the following **new** rule 871—22.19(96):

871—22.19(96) Notification of availability of unemployment insurance.

22.19(1) Upon separation from employment, an employer shall provide documentation to an employee of the availability of unemployment insurance.

22.19(2) The notice shall inform employees of the following:

a. Unemployment insurance benefits are available to workers who are unemployed and who meet the state's eligibility requirements;

b. Employees may file a claim in the first week that employment stops or work hours are reduced;

c. Employees may file claims online at iowaworkforcedevelopment.gov or by telephone at (866)239-0843;

d. Employees must provide the department with the following information to process the claim:

(1) Full legal name;

(2) Social security number;

(3) Authorization to work (if the employee is not a U.S. citizen or resident);

(4) Last employer name and address;

(5) Start and end dates of the employee's last employment;

(6) Additional information upon request of the department.

This rule is intended to implement Iowa Code chapter 96 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

[Filed 1/28/21, effective 5/26/21]
[Published 2/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/21.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 108 of the Governor's proclamation of disaster emergency issued February 5, 2021: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.02.05.pdf.