



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.

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Publications Editing Office (Administrative Code)

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2020

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE		ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
			ADOPTION DATE	ADOPTION DATE				
Dec. 26 '19	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20	
Jan. 8	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27	
Jan. 24	Feb. 12	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10	
Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24	
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7	
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21	
Mar. 20	Apr. 8	Apr. 28	May 13	**May 13**	June 3	July 8	Oct. 5	
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19	
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2	
May 1	May 20	June 9	June 24	**June 24**	July 15	Aug. 19	Nov. 16	
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30	
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14	
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28	
June 24	July 15	Aug. 4	Aug. 19	**Aug. 19**	Sep. 9	Oct. 14	Jan. 11 '21	
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21	
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21	
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '21	
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '21	
Sep. 4	Sep. 23	Oct. 13	Oct. 28	**Oct. 28**	Nov. 18	Dec. 23	Mar. 22 '21	
Sep. 18	Oct. 7	Oct. 27	Nov. 11	**Nov. 12**	Dec. 2	Jan. 6 '21	Apr. 5 '21	
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '21	Apr. 19 '21	
Oct. 16	Nov. 4	Nov. 24	Dec. 9	**Dec. 9**	Dec. 30	Feb. 3 '21	May 3 '21	
Oct. 28	Nov. 18	Dec. 8	Dec. 23	**Dec. 23**	Jan. 13 '21	Feb. 17 '21	May 17 '21	
Nov. 12	Dec. 2	Dec. 22	Jan. 6 '21	**Jan. 6 '21**	Jan. 27 '21	Mar. 3 '21	May 31 '21	
Nov. 27	Dec. 16	Jan. 5 '21	Jan. 20 '21	Jan. 22 '21	Feb. 10 '21	Mar. 17 '21	June 14 '21	
Dec. 9	Dec. 30	Jan. 19 '21	Feb. 3 '21	Feb. 5 '21	Feb. 24 '21	Mar. 31 '21	June 28 '21	
Dec. 23	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21	

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 3, 2020	April 22, 2020
23	Friday, April 17, 2020	May 6, 2020
24	Friday, May 1, 2020	May 20, 2020

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, April 3, 2020, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. Due to the COVID-19 outbreak, the April 3, 2020, meeting will likely be rescheduled or changed to a telephonic meeting. For more information contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Hemp, ch 96 Notice **ARC 4988C**, also Filed Emergency **ARC 4989C** 3/11/20

ATTORNEY GENERAL[61]
 Annual notification fees, 22.5(1) Filed **ARC 4969C** 3/11/20

CIVIL RIGHTS COMMISSION[161]
 Assistance animal as reasonable accommodation in housing—form, ch 9 appendix A
Filed **ARC 4970C**..... 3/11/20

ECONOMIC DEVELOPMENT AUTHORITY[261]
 Welcome center program, ch 34 Notice **ARC 4962C** 3/11/20
 Workforce housing tax incentives program, 48.3, 48.4(1), 48.5 to 48.7 Notice **ARC 4967C**..... 3/11/20
 Targeted jobs withholding tax credit program—rescission of sunset date for entering into a
 withholding agreement, 71.4(2) Filed **ARC 4990C** 3/11/20
 Renewable chemical production tax credit program—definition of “building block
 chemical,” 81.2 Notice **ARC 4966C** 3/11/20
 Renewable chemical production tax credit program—definition of “building block
 chemical,” 81.2 Filed **ARC 4971C**..... 3/11/20

ENVIRONMENTAL PROTECTION COMMISSION[567]
 NATURAL RESOURCES DEPARTMENT[561]“umbrella”
 Air quality, 20.2, 22.1(3), 22.100, 22.120, 22.128(4), 23.1, 23.5, 25.1(9), 30.1(1), 33.3
Notice **ARC 4961C** 3/11/20

HUMAN SERVICES DEPARTMENT[441]
 Appeals and hearings, amendments to ch 7 Filed **ARC 4972C**..... 3/11/20
 Timely and adequate notice, adopt ch 16; amend chs 14, 40, 41, 46, 74 to 76, 79, 82, 83, 86,
 90, 91, 93, 106, 109, 153, 170, 187 Filed **ARC 4973C** 3/11/20
 Statewide pharmacy protocols, 77.57, 78.2, 78.42, 79.1 Notice **ARC 4964C** 3/11/20
 Brain injury waiver budget cap; reimbursement rate for assertive community treatment
 services, 79.1(2), 83.82(2)“d” Filed **ARC 4974C**..... 3/11/20
 Medical assistance advisory council, 79.7 Filed **ARC 4975C**..... 3/11/20

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Reporting of dependent adult abuse in programs and facilities, 52.3(3) Filed **ARC 5004C** 3/25/20
 Regulation of elder group homes, assisted living programs, and adult day services,
 amendments to chs 67 to 70 Filed **ARC 4976C**..... 3/11/20

INSURANCE DIVISION[191]
 COMMERCE DEPARTMENT[181]“umbrella”
 Unfair trade practices—standards for annuity agents and securities agents, amendments to ch
 15, 50.104 Notice **ARC 4998C**..... 3/25/20

IOWA FINANCE AUTHORITY[265]
 Board of directors, 1.3 Notice **ARC 4959C**..... 3/11/20

LABOR SERVICES DIVISION[875]
 WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”
 Federal occupational safety and health standards—adoption by reference, 4.3(1)“j,” 10.20,
 26.1 Notice **ARC 4996C** 3/25/20
 Federal occupational safety and health standards for general industry—adoption by
 reference, 10.20 Filed **ARC 5005C** 3/25/20
 Boiler and pressure vessel codes—adoption by reference, 90.6(1), 91.1 Filed **ARC 4977C** 3/11/20

LAW ENFORCEMENT ACADEMY[501]
 Council quorum; definitions; law enforcement officer qualifications, certification and
 training; decertification; reserve peace officers; public records and fair information
 practices, amend chs 1 to 3, 8, 10; adopt chs 6, 7 Filed **ARC 5006C** 3/25/20

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Appointment of executive director, 1.3 Notice **ARC 4968C** 3/11/20
- Prohibition of licensing sanctions for student loan debt default or delinquency, amend chs 2, 20, 23; rescind ch 16 Filed **ARC 4979C** 3/11/20
- Mandatory training for identifying and reporting abuse, 11.4 Filed **ARC 4978C** 3/11/20
- Standards of practice—medical cannabidiol, 13.15(1) Notice **ARC 5001C** 3/25/20
- Expedited licensure for spouses of active duty military service members, amendments to ch 18 Filed **ARC 4980C** 3/11/20

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Transmission of prescription drug orders between pharmacies, 6.9 Notice of Termination **ARC 4991C**..... 3/25/20
- Technician product verification program; nonresident pharmacy applicants; records requests; pharmacy closure; prescription drug delivery, 3.21(1), 3.23, 6.8, 6.16(2), 7.6(1)"b," 7.13(4), 8.9, 8.15, 8.24, 8.35, 13.8(7), 21.2 Filed **ARC 5007C** 3/25/20
- Changes in distributor facility managers, 17.1, 17.2, 17.3(3)"d," 42.3(8), 43.3(5)"d" Filed **ARC 5008C**..... 3/25/20

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Licensing sanction prohibition for student loan debt repayment default or delinquency; continuing education exemptions for funeral directors, 4.12(1), 4.16 Notice **ARC 4963C** 3/11/20
- Expedited licensing of spouses of active duty military personnel, amendments to ch 20 Filed **ARC 5009C**..... 3/25/20
- Marital and family therapists and mental health counselors—licensure, amendments to ch 31 Filed **ARC 5010C**..... 3/25/20
- Marital and family therapists and mental health counselors—continuing education, mandatory reporter training, 32.1, 32.2(1), 32.3 Filed **ARC 5011C** 3/25/20
- Massage therapists—child abuse and dependent adult abuse mandatory reporter training, 131.8(4) Amended Notice **ARC 4992C** 3/25/20
- Optometrists—electronic transmission of prescriptions, 182.4(4) Notice **ARC 5003C**..... 3/25/20
- Psychologists—licensure, 240.1 to 240.10, 240.12(2)"b" Notice **ARC 5002C**..... 3/25/20
- Social workers—continuing education, child and dependent adult abuse mandatory reporter training, 280.9(3), 281.1, 281.3(2) Filed **ARC 4981C** 3/11/20
- Athletic trainers—child abuse and dependent adult abuse mandatory reporter training, 351.9(4) Filed **ARC 4982C** 3/11/20

PUBLIC HEALTH DEPARTMENT[641]

- Advisory council on brain injuries—teleconference option for official meetings, 55.6 Notice **ARC 4999C** 3/25/20
- Licensing—spouses of active duty service members, amendments to ch 196 Notice **ARC 5000C**..... 3/25/20

SECRETARY OF STATE[721]

- Elections technology security, 29.3(1), 29.4 to 29.6 Notice **ARC 4965C** 3/11/20
- Notarial acts, ch 43 Notice **ARC 4997C** 3/25/20

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

- Education telecommunications council and regional telecommunications councils, rescind 1.4, ch 8, 15.4, 15.5 Filed **ARC 4983C** 3/11/20

TRANSPORTATION DEPARTMENT[761]

- Outdoor advertising, amendments to ch 117 Filed **ARC 4984C** 3/11/20
- Towable recreational vehicles; certifications of trust; special farm truck weights, amendments to chs 400, 425 Filed **ARC 4960C** 3/11/20
- Annual raw forest products permit, amendments to ch 511 Filed **ARC 4985C**..... 3/11/20
- Motor carriers, 524.2 to 524.6, 524.7(2), 524.8, 524.11, 524.13, 524.15, 524.18 Notice **ARC 4994C**..... 3/25/20
- Driver’s license examinations, amendments to ch 604 Notice **ARC 4995C**..... 3/25/20
- Commercial driver licensing, amendments to ch 607 Filed **ARC 4986C** 3/11/20

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

- Injured veterans grant program—eligibility, 11.3 Filed **ARC 4987C** 3/11/20
- Veterans trust fund—dental care payment maximum, 14.4(4) Filed **ARC 5012C**..... 3/25/20

VETERINARY MEDICINE BOARD[811]

Licensing sanction prohibition for student loan debt and related service obligations, 5.18,
6.8, 10.6(1) Notice **ARC 5013C**..... 3/25/20

WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"
Payroll tax tables; agency address, amendments to chs 1, 4, 5, 7 to 9, 12 Notice **ARC 4993C** 3/25/20

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance benefits, 24.13(1), 24.17(1)"d," 24.19(2), 25.8(1) Notice **ARC 4958C**..... 3/11/20

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
109 South Summer Street
St. Ansgar, Iowa 50472

Representative Steven Holt
1430 Third Avenue South
Denison, Iowa 51442

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

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

Representative Joe Mitchell
Mount Pleasant, Iowa

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

Representative Rick Olson
3012 East 31st Court
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Governor's Ex Officio Representative
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Des Moines, Iowa 50319
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NOTE: See also the Advisory Notice on page 2534.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Hemp, ch 96 IAB 3/11/20 ARC 4988C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 3, 2020 9 to 10 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 20.2, 22.1(3), 22.100, 22.120, 22.128(4), 23.1, 23.5, 25.1(9), 30.1(1), 33.3 IAB 3/11/20 ARC 4961C	See Advisory Notice published herein on page 2533 for public hearing information	April 13, 2020 1 to 2 p.m.
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INSURANCE DIVISION[191]

Unfair trade practices—standards for annuity agents and securities agents, amendments to ch 15, 50.104 IAB 3/25/20 ARC 4998C	Via conference call Contact Tracy Swalwell Phone: 515.725.1249 Email: tracy.swalwell@iid.iowa.gov	April 28, 2020 10 to 11 a.m.
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LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards—adoption by reference, 4.3(1)“j,” 10.20, 26.1 IAB 3/25/20 ARC 4996C	150 Des Moines St. Des Moines, Iowa	April 15, 2020 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Optometrists—electronic transmission of prescriptions, 182.4(4) IAB 3/25/20 ARC 5003C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 14, 2020 1 to 1:30 p.m.
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Licensing sanction prohibition for student loan debt repayment default or delinquency; continuing education exemptions for funeral directors, 4.12(1), 4.16 IAB 3/11/20 ARC 4963C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 31, 2020 8 to 8:30 a.m.
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Massage therapists—child abuse and dependent adult abuse mandatory reporter training, 131.8(4) IAB 3/25/20 ARC 4992C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 14, 2020 8:30 to 9 a.m.
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Psychologists—licensure, 240.1 to 240.10, 240.12(2)“b” IAB 3/25/20 ARC 5002C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 14, 2020 10 to 10:30 a.m.
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PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Respiratory care practitioners and polysomnographic technologists—child abuse and dependent adult abuse mandatory reporter training, 261.8(4) IAB 2/26/20 ARC 4933C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 23, 2020 9 to 9:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Motor carriers, 524.2 to 524.6, 524.7(2), 524.8, 524.11, 524.13, 524.15, 524.18 IAB 3/25/20 ARC 4994C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 16, 2020 11 a.m. (If requested)
Driver's license examinations, amendments to ch 604 IAB 3/25/20 ARC 4995C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 16, 2020 10 a.m. (If requested)

VETERINARY MEDICINE BOARD[811]

Licensing sanction prohibition for student loan debt and related service obligations, 5.18, 6.8, 10.6(1) IAB 3/25/20 ARC 5013C	Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	April 15, 2020 8 to 9 a.m.
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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 4998C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to best interest standard for insurance securities and professionals and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 15, “Unfair Trade Practices,” and Chapter 50, “Regulation of Securities Offerings and Those Who Engage in the Securities Business,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 502.605 and 507B.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 502.501, 502.501A and 507B.4A.

Purpose and Summary

The proposed rule making would require annuity agents and securities agents to act in the best interest of their customers. These standards ensure consumers’ interests are put first. The rule making follows efforts by the National Association of Insurance Commissioners to develop a model Suitability in Annuity Transactions Model Regulation that is harmonized with rule making by the U.S. Securities and Exchange Commission (SEC). Iowans choose professional financial services either through fee arrangements or through transactional commission arrangements based on their particular needs. Requiring high quality financial advice that fits the particular needs, objectives and situation of the individual Iowan has always been our primary purpose.

This rule making will preserve consumer choice so that many more middle-class Iowans will retain access to retirement education and security that they choose. The detailed regulatory framework promotes informing consumers about risks, benefits and costs of any recommended transaction.

This standard requires the financial professional to always put the consumer’s interest first and to only make recommendations that match the particular Iowan’s needs, objectives and situation. This proposal is consistent with the efforts of the SEC and will be very beneficial to consumers.

Fiscal Impact

The fiscal impact cannot be determined.

The proposed amendments are necessary to coordinate Iowa law with federal law in the wake of the Securities and Exchange Commission-implemented Regulation Best Interest. The proposed amendments will materially increase the Division’s regulatory responsibilities by adding a new state level best interest obligation to the existing suitability standards. Expenditure of Division resources will increase in order to ensure compliance with the rules. The resources available for these purposes are unclear as is the extent of a future examination program that focuses on the new obligations. There will be no increase in revenues as a result of this rule making.

Overall, the existing Division rules have compliance costs for industry participants. The Division expects the proposed amendments to have additional implementation costs as firms update their internal systems to comply with the new requirements. The extent and materiality of these one-time costs are indeterminate. The costs will be somewhat mitigated in that the insurance rule provides a safe harbor for financial professionals who comply with comparable federal standards. Coordinating with federal duties would add no additional burdens in order to comply with the best interest standard. The proposed

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rule making requires insurers to have a supervision system and to provide training. Neither of these are new requirements, but the rule making could result in the industry's having to expend resources to refine or update its supervision system and training programs. Those costs are indeterminate. Moreover, the ongoing costs of complying with the proposed rule making, after the one-time implementation costs, are uncertain as well.

For broker-dealers and agents, the rule making roughly mirrors recently adopted federal requirements. Based on that, the Division does not expect material implementation costs for broker-dealers.

Overall, while the rule making may result in a fiscal impact to the industry, there is an overall benefit in that the Division rules coordinate with federal standards.

Purchasers of annuities and securities investors should benefit from the proposed rule making due to enhanced standards of care placed on licensed industry professionals. It is not possible to quantify the impact in any given transaction, but overall the expectation is that purchasers/investors will end up with products that better fit their needs.

Jobs Impact

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

Waivers

The Division's general waiver provisions of 191—Chapter 4 apply to these rules.

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 p.m. on April 28, 2020. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, Iowa 50309
Phone: 515.725.1249
Fax: 515.281.3059
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

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

April 28, 2020
10 to 11 a.m.

Persons wishing to attend the conference call 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 conference call public 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 the Division and advise of specific needs.

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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—15.72(507B) as follows:

191—15.72(507B) Purpose. The purpose of these rules is to require producers, as defined in rule 191—15.74(507B), to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately effectively addressed. Nothing herein shall be construed to create or imply a private cause of action for a violation of these rules or to subject a producer to civil liability under the best interest standard of care outlined in rule 191—15.75(507B) or under standards governing the conduct of a fiduciary or a fiduciary relationship.

ITEM 2. Amend rule 191—15.73(507B) as follows:

191—15.73(507B) Applicability and scope.

15.73(1) These rules shall apply to any sale or recommendation to purchase, exchange or replace of an annuity made to a consumer on or after January 1, 2011, by an insurance producer, or by an insurer where no producer is involved, that results in the purchase, exchange or replacement recommended 2021.

15.73(2) Unless otherwise specifically included, ~~this rule shall~~ these rules do not apply to transactions involving:

a. Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to these rules;

b. Contracts used to fund the following:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

~~(5)~~ *c.* Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

~~(6)~~ *d.* Formal prepaid funeral contracts.

ITEM 3. Amend rule 191—15.74(507B) as follows:

191—15.74(507B) Definitions. For purposes of this division:

“Annuity” means an annuity that is an insurance product under state law, individually solicited, whether the product is classified as an individual or group annuity.

“Cash compensation” means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

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“Consumer profile information” means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age;
2. Annual income;
3. Financial situation and needs, including debts and other obligations;
4. Financial experience;
5. Insurance needs;
6. Financial objectives;
7. Intended use of the annuity;
8. Financial time horizon;
9. Existing assets or financial products, including investment, annuity and insurance holdings;
10. Liquidity needs;
11. Liquid net worth;
12. Risk tolerance, including but not limited to, willingness to accept nonguaranteed elements in the annuity;
13. Financial resources used to fund the annuity; and
14. Tax status.

“Continuing education credit” or “CE credit” means one credit as defined in rule 191—11.2(505,522B).

“Continuing education provider” or “CE provider” means a CE provider as defined in rule 191—11.2(505,522B).

“FINRA” means the Financial Industry Regulatory Authority or a succeeding agency.

~~“Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.~~

“Insurer” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

“Intermediary” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by producers.

“Material conflict of interest” means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. “Material conflict of interest” does not include cash compensation or noncash compensation.

“Noncash compensation” means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

“Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“Producer” means a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of these rules, “producer” includes an insurer where no producer is involved.

~~“Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.~~

“Replacement” means a transaction in which a new policy or contract annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no whether or not a producer is involved, that, by reason of the transaction, an existing annuity or other insurance policy or contract has been or is to be any of the following:

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1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

~~“Suitability information” means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:~~

- ~~1. Age;~~
- ~~2. Annual income;~~
- ~~3. Financial situation and needs, including the financial resources used for the funding of the annuity;~~
- ~~4. Financial experience;~~
- ~~5. Financial objectives;~~
- ~~6. Intended use of the annuity;~~
- ~~7. Financial time horizon;~~
- ~~8. Existing assets, including investment and life insurance holdings;~~
- ~~9. Liquidity needs;~~
- ~~10. Liquid net worth;~~
- ~~11. Risk tolerance; and~~
- ~~12. Tax status.~~

“SEC” means the United States Securities and Exchange Commission.

ITEM 4. Amend rule 191—15.75(507B) as follows:

191—15.75(507B) Duties of insurers and of insurance producers.

15.75(1) *Best interest obligations.* In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer’s investments and other insurance products and as to the consumer’s financial situation and needs, including the consumer’s suitability information, and that there is a reasonable basis to believe all of the following: A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer’s or the insurer’s financial interest ahead of the consumer’s interest. A producer has acted in the best interest of the consumer if the producer has satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

a. *Care obligation.* The

(1) The producer, in making a recommendation shall exercise reasonable diligence, care and skill to:

1. Know the consumer’s financial situation, insurance needs and financial objectives;
2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
3. Have a reasonable basis to believe the recommended option effectively addresses the consumer’s financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and
4. Communicate the basis or bases of the recommendation.

(2) The requirements under subparagraph 15.75(1)“a”(1) include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(3) The requirements under subparagraph 15.75(1)“a”(1) require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the

INSURANCE DIVISION[191](cont'd)

consumer's financial situation, insurance needs and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(4) The requirements under this subrule do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in these rules.

(5) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(6) The requirements under subparagraph 15.75(1) "a"(1) include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

(7) The requirements under subparagraph 15.75(1) "a"(1) apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(8) The requirements under subparagraph 15.75(1) "a"(1) do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(9) The requirements under subparagraph 15.75(1) "a"(1) do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

(10) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

1. The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

2. The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

3. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(11) Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

b. Disclosure obligation.

(1) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to Appendix VI:

1. A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

2. An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- Fixed annuities;
- Fixed indexed annuities;
- Variable annuities;
- Life insurance;
- Mutual funds;
- Stocks and bonds; and
- Certificates of deposit;

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3. An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

- One insurer;
- From two or more insurers; or
- From two or more insurers although primarily contracted with one insurer.

4. A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services; and

5. A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph 15.75(1) "b"(2);

(2) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

1. A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

2. Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(3) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been reasonably informed of various features of the recommended annuity, such as: the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; any annual fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk;

~~b. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, death benefit, or living benefit;~~

~~e. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on the consumer's suitability information; and~~

~~d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:~~

~~(1) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death benefit, living benefit, or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;~~

~~(2) The consumer would benefit from product enhancements and improvements; and~~

~~(3) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.~~

c. *Conflict of interest obligation.* A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

d. *Documentation obligation.* A producer shall at the time of recommendation or sale:

(1) Make a written record of any recommendation and the basis for the recommendation subject to this regulation;

(2) Obtain a consumer-signed statement on a form substantially similar to Appendix VII documenting:

1. A customer's refusal to provide the consumer profile information, if any; and

2. A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

INSURANCE DIVISION[191](cont'd)

(3) Obtain a consumer-signed statement on a form substantially similar to Appendix VIII acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

e. Application of the best interest obligation. Any requirement applicable to a producer under this subrule shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

~~15.75(2) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.~~

~~15.75(3) Except as permitted under subrule 15.75(4), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~

~~15.75(4) 15.75(2) Exceptions. Transactions not based on a recommendation.~~

~~a. Except as provided under paragraph 15.75(4) "b," neither an insurance 15.75(2) "b," a producer, nor an insurer, shall have any no obligation to a consumer under subrule 15.75(1) or 15.75(3) paragraph 15.75(1) "a" related to any annuity transaction if:~~

- ~~(1) No recommendation is made;~~
- ~~(2) A recommendation was made and was later found to have been prepared based on inaccurate material information provided by the consumer;~~
- ~~(3) A consumer refuses to provide relevant suitability consumer profile information and the annuity transaction is not recommended; or~~
- ~~(4) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.~~

~~b. An insurer's issuance of an annuity subject to paragraph 15.75(4) "a" 15.75(2) "a" shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.~~

~~15.75(5) An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:~~

- ~~a. Make a record of any recommendation subject to subrule 15.75(1);~~
- ~~b. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and~~
- ~~c. Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.~~

~~15.75(6) 15.75(3) An insurer's duty to supervise. Supervision system.~~

~~a. Except as permitted under subrule 15.75(2), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.~~

~~a. b. An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with rules 191—15.72(507B) through 191—15.78(507B) including, but not limited to, the following:~~

~~(1) The insurer shall establish and maintain reasonable procedures to inform its insurance producers of the requirements of these rules and shall incorporate the requirements of these rules into relevant insurance producer training manuals;~~

~~(2) The insurer shall establish and maintain standards for insurance producer product training and shall establish and maintain reasonable procedures to require its insurance producers to comply with the requirements of rule 191—15.76(507B);~~

INSURANCE DIVISION[191](cont'd)

(3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its ~~insurance~~ producers;

(4) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable ~~the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives.~~ Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not suitable in compliance with subrules 15.75(1), 15.75(2), 15.75(4) and 15.75(5). These procedures may include, but are not limited to, confirmation of ~~consumer suitability~~ the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures or by confirming suitability the consumer profile information or other required information under this rule after issuance or delivery of the annuity; and

(6) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this rule;

(7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

~~(6)~~ (9) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

~~b. c.~~ Third-party supervisor.

(1) Nothing in this subrule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required ~~under paragraph 15.75(6) "a."~~ this subrule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to rule ~~191—15.73(507B)~~ 191—15.77(507B) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph ~~15.75(6) "b"(2)~~ 15.75(3) "c"(2).

(2) An insurer's supervision system under ~~paragraph 15.75(6) "a"~~ this subrule shall include supervision of contractual performance under this subrule including, but not limited to, the following:

1. Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

2. Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

~~e. d.~~ An insurer is not required to include in its system of supervision ~~an insurancee;~~

(1) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or

(2) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

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~~15.75(7)~~ **15.75(4)** *Prohibited practices.* ~~An insurance producer shall not~~ Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

a. Truthfully responding to an insurer's request for confirmation of ~~suitability~~ the consumer profile information;

b. Filing a complaint; or

c. Cooperating with the investigation of a complaint.

~~15.75(8)~~ **15.75(5)** *Compliance with FINRA. Safe harbor.*

a. Sales Recommendations and sales of annuities made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions comparable standards shall satisfy the requirements under these rules. This subrule applies to FINRA member broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision are similar to those applied to variable annuity sales all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subrule shall limit the insurance commissioner's ability to investigate and enforce (including investigate) the provisions of this regulation these rules.

b. Nothing in paragraph 15.75(5) "a" shall limit the insurer's obligation to comply with paragraph 15.75(3) "a," although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

b. c. For paragraph ~~15.75(8) "a"~~ 15.75(5) "a" to apply, an insurer shall:

(1) Monitor the FINRA member broker-dealer relevant conduct of the financial professional seeking to rely on paragraph 15.75(5) "a" or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer's business; and

(2) Provide to the FINRA member broker-dealer entity responsible for supervising the financial professional seeking to rely on paragraph 15.75(5) "a," such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist the FINRA member broker-dealer such entity to maintain its supervision system.

d. For purposes of this subrule, "financial professional" means a producer that is regulated and acting as:

(1) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(2) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(3) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

e. For purposes of this subrule, "comparable standards" means:

(1) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;

(2) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940, including, but not limited to, the Form ADV and interpretations; and

(3) With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

ITEM 5. Amend rule 191—15.76(507B) as follows:

191—15.76(507B) Insurance producer Producer training.

INSURANCE DIVISION[191](cont'd)

15.76(1) ~~An insurance A~~ A producer shall not solicit the sale of an annuity product unless the ~~insurance~~ producer has adequate knowledge of the product to recommend the annuity and the ~~insurance~~ producer is in compliance with the insurer's standards for product training. ~~An insurance A~~ A producer may rely on insurer-provided product-specific training standards and materials to comply with this subrule.

15.76(2) Training required.

a. One-time course.

(1) ~~An insurance A~~ A producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the ~~Iowa insurance division commissioner~~ and provided by an education provider approved by the ~~insurance division commissioner~~.

(2) ~~Insurance producers~~ Producers may not engage in the sale of annuities until the annuity training course required under this rule has been completed.

b. The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

c. The training required under this rule shall include information on the following topics:

(1) The types of annuities and various classifications of annuities;

(2) Identification of the parties to an annuity;

(3) How fixed, variable, ~~and indexed,~~ and other product-specific annuity contract provisions affect consumers;

(4) The application of income taxation of qualified and nonqualified annuities;

(5) The primary uses of annuities;

(6) Appropriate standard of conduct sales practices; and

(7) Replacement and disclosure requirements.

d. Providers of courses intended to comply with this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

e. A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to ~~insurance~~ producer continuing education courses as set forth in 191—Chapter 11.

f. A producer who has completed an annuity training course approved by the commissioner prior to January 1, 2021, shall, before July 1, 2021, complete either:

(1) A new four-credit training course approved by the commissioner after January 1, 2021; or

(2) An additional one-time one-credit training course approved by the commissioner and provided by the commissioner-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.

~~*f.*~~ *g.* Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 191—Chapter 11.

~~*g.*~~ *h.* Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 191—Chapter 11.

~~*h.*~~ *i.* Satisfaction of the training requirements of another state that are substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

j. The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

~~*i.*~~ *k.* An insurer shall verify that ~~an insurance a~~ a producer has completed the annuity training course required under this subrule before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subrule by obtaining certificates of completion of the training course or obtaining reports provided by Iowa insurance commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved continuing education providers.

INSURANCE DIVISION[191](cont'd)

ITEM 6. Amend rule 191—15.77(507B) as follows:

191—15.77(507B) Compliance; mitigation; penalties; enforcement.

15.77(1) An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its ~~insurance~~ producer, the commissioner may order:

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with these rules by the insurer’s insurer, an entity contracted to perform the insurer’s supervisory duties, or by its insurance producer’s, violation of the rules of this division the producer;

b. A general agency, independent agency or the ~~insurance~~ producer to take reasonably appropriate corrective action for any consumer harmed by the ~~insurance~~ producer’s violation of the rules of this division; and

c. Appropriate penalties and sanctions.

15.77(2) Any applicable penalty under Iowa Code chapter 507B for a violation of the rules in Division V of this chapter may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

15.77(3) The authority to enforce compliance with these rules is vested exclusively with the commissioner.

ITEM 7. Amend rule 191—15.78(507B) as follows:

191—15.78(507B) Record keeping.

15.78(1) Insurers, general agents, independent agencies, and ~~insurance~~ producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer (including summaries of oral disclosures) and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of ~~an insurance~~ a producer.

15.78(2) Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

ITEM 8. Adopt the following new appendices in **191—Chapter 15**, Appendices VI, VII, and VIII, as follows:

APPENDIX VI

INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES

Do Not Sign Unless You Have Read and Understand the Information in this Form

Date: _____

INSURANCE AGENT (PRODUCER) INFORMATION (“Me”, “I”, “My”

First Name: _____ Last Name: _____

Business/Agency Name: _____ Website: _____

Business Mailing Address: _____

Business Telephone Number: _____

Email Address: _____

National Producer Number in [state]: _____

CUSTOMER INFORMATION (“You”, “Your”

First Name: _____ Last Name: _____

What Types of Products Can I Sell You?

I am licensed to sell annuities to you in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial

INSURANCE DIVISION[191](cont'd)

objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- Fixed or Fixed Indexed Annuities
- Variable Annuities
- Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- Mutual Funds
- Stocks/Bonds
- Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

<input type="checkbox"/> Annuities from Only One (1) Insurer	<input type="checkbox"/> Annuities from Two or More Insurers
<input type="checkbox"/> Annuities from Two or More Insurers although I primarily sell annuities from:	

How I'm Paid for My Work:

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

- Commission, which is usually paid by the insurance company or other sources. If other sources, describe: _____.
- Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.
- Other (Describe): _____.

If you have questions about the above compensation I will be paid for this transaction, please ask me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "noncash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

Drafting Note: This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.

Drafting Note: The acknowledgment and signature should be in immediate proximity to the disclosure language.

By signing below, you acknowledge that you have read and understand the information provided to you in this document.

Customer Signature

Date

Agent (Producer) Signature

Date

APPENDIX VII

CONSUMER REFUSAL TO PROVIDE INFORMATION

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are you being given this form?

You're buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Insurance Code of [this state] if you sign this form or provide inaccurate information.

Statement of Purchaser:

- I **REFUSE** to provide this information at this time.
- I have chosen to provide LIMITED information at this time.

Customer Signature

Date

APPENDIX VIII

Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are you being given this form?

You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Code of [this state].

Customer Signature

Date

Agent/Producer Signature

Date

ITEM 9. Adopt the following **new** rule 191—50.104(502):

191—50.104(502) Best interest obligations in the brokerage business.

INSURANCE DIVISION[191](cont'd)

50.104(1) In addition to the definitions in Iowa Code chapter 502 and those of 191—50.1(502), the following definitions apply to this rule:

“*Conflict of interest*” means an interest that might incline a broker-dealer or agent—consciously or unconsciously—to make a recommendation that is not disinterested.

“*Investment profile*” means the following information, but is not limited to, the retail investor’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the retail investor may disclose to the broker, dealer, or a natural person who is an associated person of a broker or dealer in connection with a recommendation.

“*Retail investor*” means a natural person, or the legal representative of such natural person, who receives a recommendation of any securities transaction or investment strategy involving securities from a broker-dealer or agent primarily for personal, family, or household purposes.

“*Securities transaction*” means an offer, sale, or purchase of securities involving a retail investor.

50.104(2) A broker-dealer or agent failing to comply with the following requirements when recommending a customer purchase, sell or exchange a security engages in an act, practice, or course of business which operates or would operate as a fraud or deceit under Iowa Code section 502.501(3) and a manipulative, deceptive or other fraudulent scheme, device, or contrivance under Iowa Code section 502.501A:

a. A broker-dealer or agent shall have a reasonable basis to believe that a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail investor is in the best interest of the retail investor at the time the recommendation is made;

b. A broker-dealer or agent shall have a reasonable basis to believe that a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail investor does not place the financial or other interest of the broker-dealer or agent making the recommendation ahead of the interest of the retail investor;

c. A broker-dealer shall establish, maintain or enforce policies and procedures reasonably designed to:

(1) Identify all conflicts of interest associated with recommendations of any securities transaction or investment strategy involving securities (including account recommendations) to a retail investor;

(2) Eliminate or, at a minimum, disclose in accordance with paragraph 50.104(3) “*b*,” all conflicts of interest associated with recommendations of any securities transaction or investment strategy involving securities (including account recommendations) to a retail investor;

(3) Mitigate any conflicts of interest associated with recommendations of any securities transaction or investment strategy involving securities (including account recommendations) to a retail investor that create an incentive for an agent to place the interest of the broker-dealer or agent ahead of the interest of the retail investor;

(4) Identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail investor and any conflicts of interest associated with such limitations, in accordance with paragraph 50.104(3) “*b*,” and prevent such limitations and associated conflicts of interest from causing the broker-dealer or agent to make recommendations that place the interest of the broker-dealer or agent ahead of the interest of the retail investor; and

(5) Identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific securities or specific types of securities within a limited period of time; and

d. A broker-dealer shall establish, maintain, or enforce policies and procedures reasonably designed to achieve compliance with the obligations in this rule.

50.104(3) The best interest obligation in paragraphs 50.104(2) “*a*” and “*b*” shall be satisfied if the broker-dealer or agent satisfies the following care and disclosure obligations:

a. Care obligation. The broker-dealer or agent, in making a recommendation, exercises reasonable diligence, care, and skill to:

(1) Know and understand the retail investor’s investment profile, including the retail investor’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience,

INSURANCE DIVISION[191](cont'd)

investment time horizon, liquidity needs, risk tolerance, and any other information the retail investor may disclose to the broker-dealer or agent in connection with a recommendation;

(2) Know and understand the potential risks, rewards, and costs associated with the recommendation;

(3) Have a reasonable basis to believe the recommendation, including its potential risks, rewards, and costs, effectively addresses the retail investor's investment profile, including the retail investor's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance and other known information, and does not place the financial or other interest of the broker-dealer or agent ahead of the interest of the retail investor;

(4) Have a reasonable basis to believe that a series of recommendations, even if in the retail investor's best interest when viewed in isolation, is not excessive and effectively addresses the retail investor's investment profile, including the retail investor's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance and other known information when taken together in light of the retail investor's investment profile and does not place the financial or other interest of the broker-dealer or agent making the series of recommendations ahead of the interest of the retail investor; and

(5) Have a reasonable basis to believe that prior to or at the time of the recommendation the retail investor has been reasonably informed of the basis of the recommendation and the potential risks, rewards, and costs associated with the recommendation.

b. Disclosure obligation. The broker-dealer or agent, prior to or at the time of the recommendation, provides the retail investor full and fair disclosure of:

(1) All material facts relating to the scope and terms of the relationship with the retail investor, including:

1. That the broker-dealer or agent is acting as a broker-dealer or agent with respect to the recommendation;

2. The material fees and costs that apply to the retail investor's transactions, holdings, and accounts; and

3. The type and scope of services provided to the retail investor, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail investor; and

(2) All material facts relating to conflicts of interest that are associated with the recommendation.

ARC 4996C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to federal occupational safety and health standards and providing an opportunity for public comment

The Labor Commissioner hereby proposes to amend Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Chapter 10, "General Industry Safety and Health Rules," and Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

LABOR SERVICES DIVISION[875](cont'd)

Purpose and Summary

The Labor Commissioner is required to adopt by reference federal occupational safety and health standards. In this Notice of Intended Action, the Commissioner proposes to adopt by reference minor corrections to the construction and general industry standards and to the recording and reporting requirements. The changes at the federal level were adopted without notice or comment.

The relevant changes relate to reporting and recordkeeping; nationally recognized testing laboratories; the definition of “hazardous atmosphere” as it relates to general industry electrical power generation, transmission, and distribution; lead and cadmium in general industry; asbestos, cadmium and lead in construction; hazardous waste operations and emergency response in construction; flexible cords and cables in construction; scaffolds in construction; fall protection in construction; power transmission and distribution in construction; construction personnel hoists; construction excavations; steel erection in construction; and the use of cranes and derricks to hoist personnel in construction.

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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

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 Commissioner no later than 4:30 p.m. on April 15, 2020. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

April 15, 2020
9 a.m.

150 Des Moines 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.

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 Commissioner and advise of specific needs.

LABOR SERVICES DIVISION[875](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. Adopt the following **new** paragraph **4.3(1)“j”**:

j. 85 Fed. Reg. 8731 (February 18, 2020)

ITEM 2. Amend rule **875—10.20(88)** by inserting the following at the end thereof:
85 Fed. Reg. 8731 (February 18, 2020)

ITEM 3. Amend rule **875—26.1(88)** by inserting the following at the end thereof:
85 Fed. Reg. 8735 (February 18, 2020)

ARC 5001C**MEDICINE BOARD[653]****Notice of Intended Action****Proposing rule making related to medical conditions for which medical cannabidiol may be used and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124E.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124E.5.

Purpose and Summary

On February 7, 2020, the Iowa Board of Medicine convened in open session to consider a petition submitted to the Board by the Iowa Medical Cannabidiol Board pursuant to Iowa Code section 124E.5 requesting the addition of the following condition to the definition of “Debilitating medical condition”: “Intellectual disability (ID) with aggression and/or self-injury.” The Board voted 4 to 3 to approve and notice the addition of this condition as submitted in the petition. This proposed rule making implements the Board’s vote.

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 653—Chapter 3.

MEDICINE BOARD[653](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 April 14, 2020. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 S.W. Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@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 action is proposed:

Amend subrule **13.15(1)**, definition of “Debilitating medical condition,” as follows:

“*Debilitating medical condition*” means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn’s disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
8. Parkinson’s disease.
9. Untreatable pain.
10. Ulcerative colitis.
11. Severe, intractable pediatric autism with self-injurious or aggressive behaviors.
12. Corticobasal degeneration.
13. Intellectual disability (ID) with aggression and/or self-injury.

ARC 4991C**PHARMACY BOARD[657]****Notice of Termination****Terminating rule making related to transmission of prescription drug orders**

The Board of Pharmacy hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4694C**, proposing to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

The above-mentioned rule making is terminated under the authority provided in Iowa Code section 147.76.

Purpose and Summary

The amendment proposed in **ARC 4694C** would have allowed one pharmacy to provide prescription drug order information to another pharmacy for a noncontrolled substance prescription for the purpose of providing a patient with a three-day supply of continuing medication without the process constituting a complete transfer of the entire prescription.

Reason for Termination

During the public comment period for the rule making, the Board received a comment from the public that sought a change in the language, which the Board would like to more thoroughly review. The review would extend beyond six months after the rule making’s initial publication under Notice.

Jobs Impact

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

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).

ARC 4992C**PROFESSIONAL LICENSURE DIVISION[645]****Amended Notice of Intended Action****Proposing rule making related to child abuse and dependent adult abuse mandatory reporter training and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to amend Chapter 131, “Licensure of Massage Therapists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 232.69, 235B.16 and 272C.2.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

Purpose and Summary

2019 Iowa Acts, House File 731, amended Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse reporting for certain professionals. This proposed rule making amends the Board's requirements for mandatory training in child and dependent adult abuse reporting to reflect the statutory changes and requires that licensees who must report child and dependent adult abuse comply with the training requirements every three years, as provided in the amended Iowa Code sections 232.69 and 235B.16. This proposed rule making also updates subrule 131.8(4) to remove a reference to a rescinded rule provision.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 23, 2019, as **ARC 4726C**. The original rule making merely updated the statutory language in light of 2019 Iowa Acts, House File 731, and made no structural changes to the rule. The Board received a public comment requesting that the rule be amended to expressly list the practice settings where massage therapists are required to complete mandatory reporter training. The Board agreed that listing the practice settings in its rules would facilitate compliance with mandatory reporter training requirements, as well as be consistent with the language of the Board's renewal application. The Board now proposes amendments to its rule not only to reflect the statutory changes of House File 731 but also to list the practice settings identified in Iowa Code chapters 232 and 235B.

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

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

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 April 14, 2020. 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
Fax: 515.281.3121
Email: tony.alden@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:

April 14, 2020
8:30 to 9 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
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 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 action is proposed:

Amend subrule 131.8(4) as follows:

131.8(4) Mandatory reporter training requirements.

a. ~~A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting, as required by Iowa Code section 232.69(3) "b," in the previous five three years or condition(s) for waiver of this requirement as identified in paragraph "e." if:~~

(1) In the scope of professional practice or in the licensee's professional employment responsibilities, the licensee examines, attends, counsels, or treats a child; and

(2) The licensee is employed in any of the following settings:

1. A residential care facility;

2. A nursing facility;

3. An intermediate care facility for persons with mental illness;

4. An intermediate care facility for persons with an intellectual disability;

5. A school;

6. A child care center, registered child development home, or head start program;

7. A substance abuse program or facility licensed by the Iowa department of public health;

8. The Glenwood state resource center, Woodward state resource center, mental health institute in Cherokee, mental health institute in Independence, state training school, or Iowa juvenile home;

9. A juvenile detention center or juvenile shelter care facility;

10. A foster care facility; or

11. A mental health center.

b. ~~A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting, as required by Iowa Code section 235B.16(5) "b," in the previous five three years or condition(s) for waiver of this requirement as identified in paragraph "e." if:~~

(1) In the course of employment, the licensee examines, attends, counsels, or treats a dependent adult; and

(2) The licensee is employed in any of the following settings:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

1. A residential care facility;
2. A nursing facility;
3. An intermediate care facility for persons with mental illness;
4. An intermediate care facility for persons with an intellectual disability;
5. A hospital;
6. An elder group home, as defined in Iowa Code section 231B.1(3);
7. An assisted living program certified under Iowa Code section 231C.3;
8. An adult day services program, as defined in Iowa Code section 231D.1(1);
9. A community mental health center; or
10. A supported community living service, sheltered workshop, or work activity center.

~~c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."~~

~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.~~

~~d. The licensee shall maintain written documentation for five three years after mandatory training as identified in paragraphs 131.8(4) "a" to "c," including program date(s), content, duration, and proof of participation.~~

~~e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:~~

- ~~(1) Is engaged in active duty in the military service of this state or the United States; or~~
- ~~(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—Chapter 133 rule 645—4.14(272C).~~

~~f. The board may select licensees for audit of compliance with the requirements in paragraphs 131.8(4) "a" to "e."~~

ARC 5003C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to electronic transmission of prescriptions
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to amend Chapter 182, "Practice of Optometrists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.308 and 155A.27.

Purpose and Summary

Pursuant to Iowa Code sections 124.308 and 155A.27, beginning January 1, 2020, every prescription issued for a prescription drug is to be transmitted electronically as an electronic prescription to a

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

pharmacy or a pharmacy's agent unless exempted by statute. A practitioner who violates this mandate is subject to an administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year. Optometrists are prescribers subject to this electronic prescription mandate, and thus the Board may assess administrative penalties against its licensees for violations of the electronic prescription mandate beginning January 1, 2020. This rule making incorporates the electronic prescription mandate within the Board's existing rules governing prescription requirements.

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

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

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 April 14, 2020. 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:

April 14, 2020
1 to 1:30 p.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
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 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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** subrule 182.4(4):

182.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug shall be transmitted electronically unless exempted pursuant to Iowa Code sections 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

ARC 5002C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to licensure of psychologists
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to amend Chapter 240, "Licensure of Psychologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 154B and section 147.36.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154B.

Purpose and Summary

This proposed rulemaking replaces the current rule on definitions with a new rule to which definitions of Association of State and Provincial Psychology Boards ("ASPPB") and "clinical experience" have been added and from which outdated definitions of "organized health service training program," "reciprocal license," "recognized health service setting," "supervisor," and "testing service" have been omitted. This rule making also adds respecialization certificates from accredited academic programs as a requirement for licensure, adopts current terminology and makes technical changes to the application requirements. Lastly, this rule making amends title designations, amends the requirements for off-site supervised postdoctoral experience, clarifies the requirements for health service provider certification, amends the requirements for the organized health service training program, amends the requirements for licensure by endorsement, and makes nonsubstantive technical changes.

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 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 April 14, 2020. 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:

April 14, 2020
10 to 10:30 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
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 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. Rescind rule 645—240.1(154B) and adopt the following **new** rule in lieu thereof:

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASPPB” means the Association of State and Provincial Psychology Boards.

“Board” means the board of psychology.

“Certified health service provider in psychology” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“Clinical experience” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

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“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another jurisdiction.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Provisional license*” means a license issued to a person who has met the educational qualifications for licensure and is engaged in professional experience under supervision.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Amend rule 645—240.2(154B) as follows:

645—240.2(154B) Requirements for licensure. The following criteria shall apply to licensure:

~~240.2(1)~~ The following criteria shall apply to licensure:

~~a.~~ **240.2(1)** An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (~~http://www.idph.state.ia.us/licensure~~) website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov.

~~b.~~ **240.2(2)** An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

~~c.~~ **240.2(3)** Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

~~d.~~ **240.2(4)** Except as otherwise stated in these rules, no application will be considered by the board until:

(1) a. Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

(2) b. Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors.

~~e.~~ **240.2(5)** An applicant shall successfully pass the national examination.

~~f.~~ **240.2(6)** The applicant shall have the national examination score sent directly from the ~~testing service~~ ASPPB to the board.

~~g.~~ ~~Rescinded IAB 9/24/08, effective 10/29/08.~~

~~h.~~ **240.2(7)** Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) a. Considered invalid and shall be destroyed; or

(2) b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

~~240.2(2) and 240.2(3) Rescinded IAB 9/4/02, effective 10/9/02.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Amend rule 645—240.3(154B) as follows:

645—240.3(154B) Educational qualifications. A new An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

~~240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.~~

~~240.3(2) Rescinded IAB 9/24/08, effective 10/29/08.~~

~~240.3(3)~~ **240.3(1)** Unless otherwise stated in these rules, at At the time of an applicant's graduation:

- a. The program from which the doctoral degree in psychology is granted must be:
 - (1) Accredited by the American Psychological Association; or
 - (2) Accredited by the Canadian Psychological Association; or
 - (3) Designated by the ~~Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology~~ ASPPB/National Register; or
- b. The applicant must hold ~~a specialty diploma by examination~~ current board certification from the American Board of Professional Psychology; or
- c. The applicant must possess a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

~~240.3(4) Rescinded IAB 9/18/13, effective 10/23/13.~~

~~240.3(5)~~ **240.3(2)** Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 240.3(1) shall:

- a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology Psychologists, 1120 G Street NW 1200 New York Avenue NW, Suite 330 800, Washington, D.C. 20005, telephone (202)783-7663, ~~Web site website~~ www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, ~~Inc.,~~ at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in ~~240.3(3)~~ subrule 240.3(1).

- b. Provide a notarized copy of the doctoral degree certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

- c. Submit evidence of meeting all other requirements for licensure stated in these rules.

- d. Receive a final determination from the board regarding the application for licensure.

ITEM 4. Amend rule 645—240.4(154B) as follows:

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

- a. Meet all requirements of ~~subrule 240.2(1), paragraphs "a" to "c"~~ subrules 240.2(1) to 240.2(3);
- b. Provide official copies of academic transcripts sent directly from the school to the board of psychology; and

- c. Provide the completed supervision registration form according to the instructions on the form.

240.4(2) Notification of an applicant's eligibility for the examination shall be ~~sent~~ transmitted by the board office to the ~~testing service~~ online examination portal of the ASPPB.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall ~~mail~~ provide examination results to the applicant.

~~240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.~~

ITEM 5. Rescind rule 645—240.5(154B) and adopt the following new rule in lieu thereof:

645—240.5(154B,147) Title designations.

240.5(1) Applicants for licensure who have met educational requirements and who are fulfilling the experience requirements specified herein for licensure may be designated "psychology resident" or

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“resident in psychology.” The designation of “resident” shall not be used except in the employment and supervised experience that meet the requirements of subrules 240.6(1) and 240.6(2).

240.5(2) Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident” designation.

240.5(3) A licensed psychologist who possesses a doctoral degree may use the prefix “Dr.” or “Doctor” but shall add after the person’s name the word “psychologist.”

ITEM 6. Amend paragraph **240.6(1)“a”** as follows:

a. Be a minimum of ~~one year on a full- or part-time basis for no less than 1500 hours, or be a minimum of 1500 hours~~ that are completed in no less than 10 ten months;

ITEM 7. Amend paragraph **240.6(2)“b”** as follows:

b. To meet the requirements of the supervised professional experience, the supervisor must:

(1) Be a licensed psychologist as specified in rule 645—240.1(154B) who, during the time in which supervision is provided, is actively licensed in the jurisdiction where the supervision occurs;

(2) to (4) No change.

(5) ~~Work in the same physical setting as the supervisee unless a completed off-site supervision form is submitted to, and approved by the board~~ Have reasonable access to the clinical records corresponding to the work being supervised;

(6) to (8) No change.

(9) Not supervise any psychological practice or permit the supervisor’s supervisee to engage in any psychological practice which the supervisor cannot perform competently; ~~and~~

(10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee; and

(11) Work in the same physical setting as the supervisee, or if the supervisee is working off-site, ensure the off-site location has a licensed mental health provider or primary care provider on-site whenever the supervisee is working for purposes of providing emergency consultation. A supervisee may work off-site at a K-12 school without the need for on-site consultation by a licensed mental health provider or primary care provider.

ITEM 8. Rescind subrule 240.7(1) and adopt the following **new** subrule in lieu thereof:

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.7(2) and at least one year of clinical experience in a health service setting that meets the requirements for supervised professional experience stated in subrules 240.6(1) and 240.6(2). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Providers in Psychology to verify completion of the required clinical experience.

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board’s website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov. An applicant shall complete the application according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 9. Amend subrule 240.7(2) as follows:

240.7(2) Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the ~~Commission on Accreditation of the American Psychological Association (APA)~~ or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not ~~APA-approved~~ accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

a. and b. No change.

c. Has two or more doctoral-level psychologists on the staff who serve as ~~primary~~ supervisors ~~and are, at least one of whom is~~ actively licensed by the board of psychology in the jurisdiction in which the program exists.

d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who ~~early~~ carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.

e. to l. No change.

ITEM 10. Rescind rule 645—240.8(154B) and adopt the following new rule in lieu thereof:

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure according to the instructions contained in the application.

240.8(1) Application forms may be obtained from the board's website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov.

240.8(2) The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

240.8(3) The application and supporting documentation shall be accompanied by the processing fee for the exemption to licensure pursuant to 645—Chapter 5. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

240.8(4) The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

ITEM 11. 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 3. No change.

4. ~~Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.~~ Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off-site while receiving formal licensure training, ensure the off-site location has a

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

licensed mental health provider or primary care provider on-site whenever the supervisee is working for purposes of providing emergency consultation.

5. to 13. No change.

ITEM 12. Rescind rule 645—240.10(147) and adopt the following **new** rule in lieu thereof:

645—240.10(147) Licensure by endorsement. An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) 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. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.10(4) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least five years with no disciplinary history. Except as stated in subrule 240.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 240.10(4) "a" and "b." The board may license by endorsement any other applicant who:

a. Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

b. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and
2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Providers in Psychology.

2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

ITEM 13. Amend paragraph **240.12(2)"b"** as follows:

b. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors ~~who meet the definition of "supervisor" in rule 645—240.1(154B)~~. A change in a supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

ARC 4999C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to teleconference option for official meetings
and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 55, “Advisory Council on Brain Injuries,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135.22A(7) and 2019 Iowa Acts, House File 766, section 80.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.22A(7) and 2019 Iowa Acts, House File 766, section 80.

Purpose and Summary

2019 Iowa Acts, House File 766, section 80, requires the Department of Public Health to provide for a teleconference option for any board, commission, committee or council member to participate in official meetings. The first of these proposed amendments removes paragraph 55.6(1)“b,” which requires quarterly meetings of the Advisory Council on Brain Injuries to be held in a specific month. This would allow more meeting scheduling flexibility within the quarter to address the scheduling needs of the members. The proposed amendments also remove the requirement for appointed members to participate in meetings in person unless there are extenuating circumstances; affirm that a teleconference option shall be set up for members; and remove subrule 55.6(12) related to electronic meetings that is no longer necessary.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Maggie Ferguson
 Department of Public Health
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Email: maggie.ferguson@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 subrule 55.6(1) as follows:

55.6(1) The council shall meet at least quarterly.

~~a.~~ The annual meeting schedule shall be established by the beginning of the fiscal year.

~~b.~~ Meetings will be held the following months: January, April, July and October.

ITEM 2. Amend subrule 55.6(10) as follows:

55.6(10) Meeting attendance.

a. Council members are expected to ~~be present in person for~~ attend council meetings with the exception of extenuating circumstances that have been cleared beforehand by the chairperson.

b. Any council member who is unable to attend a meeting will notify council staff at least 24 hours prior to the start of a regularly scheduled meeting. A meeting may be canceled if attendance is expected to be low.

~~c. If there are extenuating circumstances, a~~ A teleconference ~~may option shall~~ be set up for the ~~member members~~ to participate in the ~~business portion of the~~ meeting.

d. Appointed members may be recommended for dismissal from the council if they miss more than three meetings annually.

ITEM 3. Rescind subrule **55.6(12)**.

ARC 5000C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to spouses of active duty service members and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 196, “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 section 272C.4.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4.

Purpose and Summary

2019 Iowa Acts, House File 288, amended Iowa Code section 272C.4, which governs the duties of boards for establishing procedures to expedite the licensing of individuals who are veterans or actively serving in the military. This change in the Iowa Code directs the Department to establish procedures to expedite the licensing of spouses of active duty members of the military forces in cases in which the spouse is already licensed in another state where the professional and occupational licensing requirements are substantially equivalent to Iowa's requirements. The proposed amendments meet the requirements of 2019 Iowa Acts, House File 288.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

Susan Dixon
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.dixon@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend **641—Chapter 196**, title, as follows:
MILITARY SERVICE, ~~AND~~ VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY
SERVICE MEMBERS

ITEM 2. Amend rule 641—196.1(85GA,ch1116), parenthetical implementation statute, as follows:

641—196.1(85GA,~~ch1116~~ 272C) Definitions.

ITEM 3. Adopt the following new definition of “Spouse” in rule **641—196.1(85GA,ch1116)**:
 “*Spouse*” means a spouse of an active duty member of the military forces of the United States.

ITEM 4. Amend rule 641—196.2(85GA,ch1116), parenthetical implementation statute, as follows:

641—196.2(85GA,~~ch1116~~ 272C) Military education, training, and service credit.

ITEM 5. Amend rule 641—196.3(85GA,ch1116) as follows:

641—196.3(85GA,~~ch1116~~ 272C) Veteran and active duty military spouse reciprocity.

196.3(1) A veteran or spouse with an unrestricted 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 the licensing authority’s laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

196.3(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 a spouse of an active duty member of the military forces of the United States.

196.3(3) Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran or spouse is licensed are substantially equivalent to the licensing requirements in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. As relevant to the license at issue, the licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.

196.3(4) The licensing authority shall promptly grant a license to the veteran or spouse if the ~~veteran~~ applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant’s disciplinary or criminal background.

196.3(5) If the licensing authority determines that the licensure requirements in the jurisdiction in which the veteran or spouse is licensed are not substantially equivalent to those required in Iowa, the licensing authority shall promptly inform the ~~veteran~~ applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a provisional license is inconsistent with the licensing authority’s enabling statute, the following shall apply:

a. If a ~~veteran~~ an applicant has not passed the required examination(s) for licensure, the ~~veteran~~ applicant may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the ~~veteran~~ applicant with the opportunity to satisfy the examination requirements.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the licensing authority issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The licensing authority shall issue a provisional license for a specified period of time upon such conditions as the licensing authority deems reasonably necessary to protect the health, welfare or safety of the public unless the licensing authority determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the licensing authority shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The licensing authority may extend a provisional license on a case-by-case basis for good cause.

196.3(6) A veteran or spouse who is aggrieved by the licensing authority'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 licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the ~~veteran~~ applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 6. Amend **641—Chapter 196**, implementation sentence, as follows:

These rules are intended to implement 2014 Iowa Acts, ~~chapter 1116, section 34~~ Iowa Code section 272C.4.

ARC 4997C

SECRETARY OF STATE[721]

Notice of Intended Action

**Proposing rule making related to notarial acts
and providing an opportunity for public comment**

The Secretary of State hereby proposes to amend Chapter 43, "Notarial Acts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 9B.27 and 9B.14A(8) as enacted in 2019 Iowa Acts, chapter 44, section 6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 9B.

Purpose and Summary

This rule making proposes procedures for electronic and remote notarial acts.

Fiscal Impact

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

SECRETARY OF STATE[721](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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 Secretary of State no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

Eric Gookin
Office of the Secretary of State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.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 action is proposed:

Amend **721—Chapter 43** as follows:

CHAPTER 43
NOTARIAL ACTS

721—43.1(9B) Certificate of notarial acts. A notarial act shall be evidenced by a certificate signed and dated by a notarial officer, be executed contemporaneously with the performance of the notarial act for which the certificate applies, and not be completed until the notarial act has been performed. The certificate shall include all of the information required by Iowa Code section 9B.15(1). A certificate of a notarial act is sufficient if it meets the requirements set out in Iowa Code section 9B.15(3). A certificate of a notarial act performed under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, must also meet the requirements of Iowa Code section 9B.14A(4) as enacted by 2019 Iowa Acts, chapter 44, section 6.

721—43.2(9B) Short form certificates. Short form certificates of notarial acts may be used provided the certificates comply with the provisions of Iowa Code sections 9B.15 and 9B.16. For purposes of

SECRETARY OF STATE[721](cont'd)

this rule, a “record” and an “instrument” have the same meaning and effect. A short form certificate of a notarial act performed under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, must meet the requirements of Iowa Code section 9B.14A(5) as enacted by 2019 Iowa Acts, chapter 44, section 6.

721—43.3(9B) Jurisdiction. For purposes of complying with the requirements of Iowa Code sections 9B.15 and 9B.16, the jurisdiction in which the notarial act is performed is determined by the location of the notary public in this state at the time the notarial act is performed.

721—43.3 721—43.4(9B) Conflict of interest. A notarial officer shall not perform a notarial act that creates a conflict of interest as prohibited in Iowa Code section 9B.4(2). For purposes of this rule, a direct financial benefit does not exist when the notarial officer is compensated on an individual loan commission basis or as provided in Iowa Code section 9B.26(2).

721—43.4 721—43.5(9B) Commission as notary public. An individual applying to the secretary of state for a commission as a notary public shall comply with the requirements and qualifications of Iowa Code section 9B.21.

43.5(1) Application. The applicant shall complete and file with the secretary of state an Application for Appointment as Notary Public. The affirmation section on an Application for Appointment as Notary Public shall constitute an executed oath of office as required by Iowa Code section 9B.21(3). An individual who wishes to perform notarial acts for remotely located individuals shall also complete and file with the secretary of state an additional application containing information indicating that the applicant meets the additional training and technology requirements of Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and this chapter, as well as any additional information the secretary of state may require.

43.5(2) Reapproval. A notary public’s approval to perform notarial acts for remotely located individuals shall expire on the same date as the individual’s notary public commission. Two months preceding the expiration of approval, the secretary of state shall notify the notary public of the expiration date and furnish an application for reapproval. The secretary of state may provide for combining its reappointment and reapproval forms.

43.5(3) Training.

a. Within the six-month period immediately preceding submission of an Application for Appointment as Notary Public, an applicant shall satisfactorily complete an initial training course approved by the secretary of state concerning the functions and duties of a notary public. The applicant shall submit with the application satisfactory proof to the secretary of state that the applicant has completed the course. An applicant who submits an Application for Appointment as Notary Public on or before July 1, 2020, shall not be subject to the requirements of this paragraph.

b. A notary public who wishes to begin performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, shall, within the six-month period immediately preceding the first performance of such an act, satisfactorily complete a training course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course. This training is in addition to that required by paragraph 43.5(3) “a.”

c. An applicant for reappointment as a notary public who currently holds a notary public commission, who wishes to continue performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and who has satisfactorily completed the initial training course required by paragraph 43.5(3) “b” at least one time prior to the 12-month period immediately preceding application for reappointment shall, within the 6-month period immediately preceding the deadline for application for reappointment, satisfactorily complete an update course approved by the secretary of state concerning the requirements and methods for performing notarial

SECRETARY OF STATE[721](cont'd)

acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

721—43.5 721—43.6(9B) Performance of notarial act on electronic record. A notarized document is deemed to be in compliance with the requirements for a notarial act on an electronic record under Iowa Code chapter 9B when the document is submitted and accepted on the electronic document management system (EDMS) administered by the Iowa judicial branch, either:

43.6(1) The notary public attaches an electronic notarial certificate that meets the requirements set out in Iowa Code section 9B.15(3); or

43.6(2) The document is submitted and accepted on the electronic document management system (EDMS) administered by the Iowa judicial branch.

This rule is intended to implement Iowa Code section 9B.27.

721—43.7(9B) Protection of recording and personally identifiable information. A notary public shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3)“c” as enacted by 2019 Iowa Acts, chapter 44, section 6, and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) as enacted by 2019 Iowa Acts, chapter 44, section 8, disclosed during the performance of an electronic notarial act using audiovisual communications, except as permitted pursuant to Iowa Code sections 9B.14C(2) and 9B.14C(3) as enacted by 2019 Iowa Acts, chapter 44, section 8.

721—43.6 721—43.8(9B) Sanctions Notary public sanctions. The secretary of state may impose any of the sanctions set out in Iowa Code section 9B.23 including issuing a letter of reprimand as a condition on a commission as a notary public.

43.6(1) 43.8(1) Complaint. A person alleging misconduct by a notary public shall complete and file a Statement of Complaint with the secretary of state. The secretary of state may also initiate investigations without the filing of a complaint if information is provided to the secretary of state that a notary public has allegedly engaged in conduct prohibited in Iowa Code section 9B.23. A copy of the complaint or a notice of investigation shall be sent to the notary public.

43.6(2) 43.8(2) Investigation. The secretary of state shall conduct an investigation to determine if the conduct alleged occurred and if sanctions should be imposed. Upon completion of an investigation, the secretary of state shall dismiss the matter, issue a letter of reprimand as a condition on commission, or set the matter for hearing as a contested case proceeding. A dismissal or issuance of a letter of reprimand as a condition on commission is deemed final agency action for purposes of judicial review under Iowa Code section 17A.19.

43.6(3) 43.8(3) Hearing. If a hearing is set, it shall be conducted as a contested case proceeding in accordance with Iowa Code chapter 17A and ~~administrative rules in 721—Chapter 3.~~ A final decision by the secretary of state is subject to judicial review as provided in Iowa Code section 17A.19.

721—43.9(9B) Standards for communication technologies and identity proofing for notarial acts performed for remotely located individuals.

43.9(1) A notary public may not perform a notarial act for a remotely located individual unless the technologies identified by the notary public pursuant to Iowa Code section 9B.14A(7) as enacted by 2019 Iowa Acts, chapter 44, section 6, satisfy all of the following:

- a. Have been approved by the secretary of state in accordance with this chapter.
- b. Provide continuous, synchronous audiovisual feeds.
- c. Provide sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other simultaneously through live, real-time transmission.
- d. Provide sufficient captured image resolution for identity proofing performed in accordance with Iowa Code section 9B.14A(3) as enacted by 2019 Iowa Acts, chapter 44, section 6.
- e. Provide a means of authentication that reasonably ensures only authorized parties have access to the audiovisual record of the performed notarial act.

SECRETARY OF STATE[721](cont'd)

f. Provide for the recording of the electronic notarial act in compliance with this chapter and Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, in sufficient quality to ensure the verification of the electronic notarial act.

g. Ensure that any change to or tampering with an electronic record before or after the electronic notarial seal has been affixed and the electronic notarial act has been completed is evident.

h. Provide confirmation that the electronic record presented is the same electronic record notarized.

i. Provide a means of electronically affixing the notary's official stamp to the notarized document.

j. Provide an electronic notary journal that complies with the provisions of this chapter to document the electronic notarial acts.

k. Provide security measures the secretary of state deems reasonable to prevent unauthorized access to:

(1) The live transmission of the audiovisual communication.

(2) A recording of the audiovisual communication.

(3) The verification methods and credentials used in the identity proofing procedure.

(4) The electronic records presented for online notarization.

(5) Any personally identifiable information used in the identity proofing or credential analysis.

43.9(2) Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards comply with the most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, and that has provided evidence to the notary public of the ability to satisfy the following requirements:

a. Identity proofing is performed through dynamic knowledge-based authentication which meets the following requirements:

(1) Principal must answer a quiz consisting of a minimum of five questions related to the principal's personal history or identity, formulated from public and proprietary data sources;

(2) Each question must have a minimum of five possible answer choices;

(3) At least 80 percent of the questions must be answered correctly;

(4) All questions must be answered within two minutes;

(5) If the principal fails the first attempt, the principal may retake the quiz one time within 24 hours;

(6) During the retake, a minimum of 60 percent of the prior questions must be replaced;

(7) A principal who fails the second attempt is not permitted to retry with the same notary public for 24 hours; and

(8) A principal who fails the third attempt is not permitted to make any further attempts.

b. Credential analysis is performed utilizing public and proprietary data sources to verify the credential presented by the principal.

c. Credential analysis shall, at a minimum:

(1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness;

(2) Ensure that the credential passes an authenticity test, consistent with the most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, that:

1. Uses appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;

2. Uses appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified;

3. Uses information held or published by the issuing source or authoritative source(s), as available, to confirm the validity of personal details and credential details; and

4. Provides output of the authenticity test to the notary public.

(3) Enable the notary public to visually compare the following for consistency: the information and photo, if the credential presented contains a photo, presented on the credential itself and the principal as viewed by the notary public in real time through audiovisual transmission.

d. If the principal must exit the workflow, the principal must meet the criteria outlined in this rule and must restart the identity proofing and credential analysis from the beginning.

SECRETARY OF STATE[721](cont'd)

43.9(3) Upon change of any of the technologies identified by the notary public pursuant to Iowa Code section 9B.14A(7) which affects compliance with the requirements of Iowa Code chapter 9B or this chapter, the provider of the technology shall immediately notify the secretary of state and all Iowa notaries public using its technology of the change. Information that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of “trade secret” under Iowa Code section 550.2(4) and other applicable law.

721—43.10(9B) Providers of communication technology.

43.10(1) Provider requirements. A notary public authorized to perform notarial acts for remotely located individuals may only use a provider of communication technology for the audiovisual recording of electronic notarial acts subject to the provisions of this chapter and Iowa Code sections 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and 9B.14B as enacted by 2019 Iowa Acts, chapter 44, section 7, if the provider:

- a. Has registered with and been approved by the secretary of state in accordance with this chapter;
- b. Allows the remote notary public sole control of the recording of the electronic notarial act using audiovisual communication, subject to the authorized access granted by the notary; and
- c. Provides the notary with access to the recording of the electronic notarial act using audiovisual communication pursuant to this chapter.

43.10(2) Backup strategy requirement—release of records to secretary of state.

a. The secretary of state may not approve a provider of communication technology as defined in Iowa Code section 9B.14A(1)“a” as enacted by 2019 Iowa Acts, chapter 44, section 6, unless the provider uses a backup strategy that is acceptable to the secretary of state for use as a record keeper for any record that is related to a remote notarial act.

b. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2)“a” are the same entity, in the event that the provider ceases business operations, the provider shall notify the secretary of state in advance of such cessation of business operations and, at the secretary of state’s request, shall release to the secretary of state any record described in paragraph 43.10(2)“a.”

c. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2)“a” are separate entities, the provider shall sign an agreement with the owner of the backup strategy that, in the event that the provider or the owner ceases business operations, the entity ceasing business operations shall notify the other entity and the secretary of state in advance of such cessation of business operations, and, at the secretary of state’s request, the owner of the backup strategy shall release to the secretary of state any record described in paragraph 43.10(2)“a.”

43.10(3) Protection of recording and personally identifiable information. A provider of communication technology shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3)“c” as enacted by 2019 Iowa Acts, chapter 44, section 6, and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) as enacted by 2019 Iowa Acts, chapter 44, section 8, disclosed during the performance of an electronic notarial act using audiovisual communications.

721—43.11(9B) Registration of provider of communication technology and approval of communication technology.

43.11(1) Registration.

a. A provider of communication technology that wishes to apply for approval by the secretary of state for use of its technology by Iowa notaries public to perform notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, shall submit a registration electronically to the secretary of state, which shall include:

- (1) Legal name of the provider of communication technology;
- (2) How the business is organized;
- (3) Mailing address of the provider of communication technology;

SECRETARY OF STATE[721](cont'd)

- (4) Physical address of the provider of communication technology;
- (5) Name and title of contact person at the provider of communication technology;
- (6) Phone number of contact person named in paragraph 43.11(1)“e”;
- (7) Name of communication technology provided;
- (8) Description of the technology used to ensure compliance with the provisions of Iowa Code chapter 9B and this chapter;
- (9) Name of the provider or providers of the knowledge-based authentication, credential analysis, and digital certificate services;
- (10) Plan for the retention and storage of data including, but not limited to, records, journals, and recordings in the event the provider of communication technology no longer provides the technology for use by Iowa notaries public for any reason; and
- (11) Declaration that the communication technology complies with all Iowa laws.

b. Information provided to the secretary of state in compliance with subparagraph 43.11(1)“a”(8) that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of “trade secret” under Iowa Code section 550.2(4).

43.11(2) Approval prior to use. If, after submission of the application required by subrule 43.11(1), the secretary of state determines that the provider of communication technology and the technology provided satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

43.11(3) Denial of approval. If the secretary of state determines that the provider of communication technology or the technology provided does not satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall deny the use of the technology and shall notify the provider of such denial, specifying the reasons for the denial.

43.11(4) Application for reconsideration. Following notification of denial of use of technology, a provider of communication technology may correct the specified deficiencies and apply for reconsideration. If the provider of communication technology and the technology provided then satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

43.11(5) Grounds for rescinding approval. Approval may be rescinded if it is found that:

- a. The technology no longer permits notaries public to meet the requirements of Iowa Code chapter 9B or this chapter;
- b. The technology no longer complies with the requirements of Iowa law;
- c. Material changes have been made to the technology and the provider has not provided notification as required by subrule 43.9(3);
- d. The provider ceases to provide the technology which has been approved for use;
- e. The provider has failed to protect from unauthorized access any information it is required to protect under the Iowa Code or this chapter; or
- f. Any other grounds that may materially affect the ability of notaries public to meet the requirements of Iowa law.

43.11(6) Procedure for rescinding approval. The secretary of state may rescind approval on any ground listed above.

a. Complaint. A person alleging violation on a ground listed in subrule 43.11(5) by a provider of communication technology or of the technology itself and who is a remote notary in or was a principal in a remote notarization interaction, regardless of whether such interaction resulted in completion of a remote notarial act, shall complete and file a Statement of Complaint with the secretary of state. The secretary of state may also initiate investigations without the filing of a complaint.

b. Investigation. The secretary of state shall investigate each complaint to determine if the alleged violation has occurred and if such violation warrants rescission of approval of the use of the communication technology. Upon determination that the alleged violation occurred, the secretary of state shall:

SECRETARY OF STATE[721](cont'd)

(1) Communicate grounds for possible rescission of approval to the provider, whereupon the provider shall have 30 days in which to correct the specified deficiencies and submit proof of such corrections to the secretary of state for review. If the secretary of state determines the deficiencies have been corrected, the secretary of state may dismiss the matter; if the secretary of state determines that deficiencies still exist, the secretary of state may either renew the communication and correction process as provided in this paragraph or finally rescind approval of use of the technology. If the secretary of state rescinds approval of the use of the technology, the secretary of state shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission;

(2) Rescind approval, whereupon the secretary shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission; or

(3) Dismiss the matter.

These rules are intended to implement Iowa Code chapter 9B.

ARC 4994C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

The Department of Transportation hereby proposes to amend Chapter 524, “For-Hire Intrastate Motor Carrier Authority,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 325A.7A and 325A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 325A.

Purpose and Summary

This proposed rule making aligns with existing legal authority and Department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern electronic procedures and terminology.

The proposed amendments make technical changes to the rules to clearly identify that the credential being issued is a motor carrier permit or certificate. Also, the proposed amendments simplify the application and supporting documentation required for a motor carrier permit or certificate and still allow for those documents to be sent to the Department electronically.

This proposed rule making amends the rules related to changes after a motor carrier permit has been issued to provide that a permit number could be included in the basis for requesting a duplicate permit and to align with current Department practice of requiring a motor carrier to submit an updated application when the motor carrier’s name or address changes.

The proposed amendments remove the requirement that a bill of lading or freight receipt be issued in triplicate because that practice is no longer necessary.

The proposed amendments comply with current Department practice and provide that a peace officer may inspect the bill of lading or freight receipt, which is consistent with a peace officer’s authority to inspect the motor carrier permit or certificate under Chapter 524.

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Finally, this proposed rule making amends the rules encompassing motor carrier tariffs to remove the outdated requirement of issuing adoption notices and participation notices, which are no longer used. The proposed amendments also simplify the process of indicating tariff changes by allowing for a summary of the changes to be provided, rather than requiring use of a specific symbol to denote the changes. Also, a motor carrier is given the flexibility of utilizing forms other than the forms prescribed by the Department for an application for special permission to establish rules of the tariff and for the motor carrier to grant powers of attorney to an agent.

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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

April 16, 2020
11 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, 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.

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 George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

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

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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 761—524.2(325A) as follows:

761—524.2(325A) General information.

524.2(1) Information and location. Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by facsimile at (515)237-3225; or by email at omcs@iowadot.us.

524.2(2) No change.

524.2(3) Complaints. Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the ~~office of~~ vehicle and motor carrier services bureau.

ITEM 2. Amend rule 761—524.3(325A) as follows:

761—524.3(325A) Applications and supporting documents.

524.3(1) Application. An application for a motor carrier permit or motor carrier certificate shall be made to the ~~office of~~ vehicle and motor carrier services ~~on a~~ bureau in the form and manner prescribed for that purpose and furnished upon request by the department. ~~The department may require application forms and supporting documentation to be submitted electronically.~~

524.3(2) No change.

524.3(3) Supporting documents. An application for a motor carrier permit or motor carrier certificate must be accompanied by the following supporting documentation in the form and manner prescribed by the department:

a. to e. No change.

ITEM 3. Amend rule 761—524.4(325A) as follows:

761—524.4(325A) Issuance of credentials motor carrier permit or motor carrier certificate. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The copy may be in either a physical or an electronic format as prescribed by the department. The permit or certificate shall be available for display to any peace officer upon request.

ITEM 4. Amend rule 761—524.5(325A) as follows:

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the ~~office of~~ vehicle and motor carrier services bureau. Requests shall include the carrier name; and the carrier permit number, certificate number, or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

ITEM 5. Amend rule 761—524.6(325A) as follows:

761—524.6(325A) Amendment to a motor carrier permit or motor carrier certificate.

524.6(1) Update to a motor carrier permit. To change the commodities being transported under a permit, an updated application must be submitted to the ~~office of~~ vehicle and motor carrier services bureau. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) Change of name or address for a motor carrier permit or certificate. ~~Notification of a name or address change~~ To change the name or address, an updated application shall be sent to the ~~office of~~

TRANSPORTATION DEPARTMENT[761](cont'd)

vehicle and motor carrier services bureau within 30 days after the change. ~~Notification~~ The updated application shall include the permit or certificate number, old name or address, new name or address, and the required fee.

ITEM 6. Amend subrule 524.7(2) as follows:

524.7(2) *Self-insurance.* In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the ~~office of~~ vehicle and motor carrier services bureau. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

ITEM 7. Amend rule 761—524.8(325A) as follows:

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) *Applications for self-insurance.* A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the ~~office of~~ vehicle and motor carrier services bureau. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) *Review by the department.* The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the ~~office of~~ vehicle and motor carrier services bureau within 60 days after the end of the motor carrier's fiscal year.

524.8(3) No change.

ITEM 8. Amend rule 761—524.11(325A) as follows:

761—524.11(325A) Safety education seminar.

524.11(1) No change.

524.11(2) *Availability.* The department shall provide an approved safety education seminar periodically. Information on the seminar schedule is available by mail from the ~~Office of Vehicle and Motor Carrier Services Bureau~~, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (515)237-3268; or by email at ocms@iowadot.us.

524.11(3) *Third-party safety education seminar approval.* ~~The office of motor~~ Motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to ~~the office of~~ motor vehicle enforcement. At a minimum, the safety course curriculum shall include the following information:

a. to f. No change.

524.11(4) *Exemption.* Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the ~~office of~~ vehicle and motor carrier services bureau. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

ITEM 9. Amend rule 761—524.13(325A) as follows:

761—524.13(325A) Bills of lading or freight receipts.

TRANSPORTATION DEPARTMENT[761](cont'd)

524.13(1) Requirements. Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt ~~in triplicate~~ on the date freight is received for shipment. The bill of lading or receipt shall show the following:

a. to h. No change.

524.13(2) Retention. There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The motor carrier's copy shall be carried with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives and any peace officer.

ITEM 10. Amend rule 761—524.15(325A) as follows:

761—524.15(325A) Tariffs.

524.15(1) Requirements. All motor carriers of household goods shall maintain on file with the ~~office~~ of vehicle and motor carrier services bureau a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) No change.

524.15(3) Filing date. All changes to tariffs and supplements must be filed with the ~~office~~ of vehicle and motor carrier services bureau at least seven days prior to the effective date. Tariffs, ~~or~~ supplements ~~or adoption notices~~ issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) Copy to department. To file a tariff with the ~~office~~ of vehicle and motor carrier services bureau, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) to 524.15(7) No change.

524.15(8) Tariff changes. All rates and charges which have been filed with the ~~office~~ of vehicle and motor carrier services bureau must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the ~~preceding issue~~ previous tariff. Changes may be indicated by providing a summary or by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

~~The proper symbol must be shown directly in connection with each change.~~

524.15(9) No change.

524.15(10) Application for special permission. Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the ~~office of vehicle and motor carrier services~~ department or other form containing all of the required information.

524.15(11) Powers of attorney ~~and participation notices.~~

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney ~~in the form prescribed by the department must be used~~ shall be provided to the department.

b. The original power of attorney shall be filed with the ~~office~~ of vehicle and motor carrier services bureau and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. No change.

524.15(12) Nonconforming tariffs. The ~~office~~ of vehicle and motor carrier services bureau shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if the tariffs contain the necessary information and are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

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ITEM 11. Amend rule 761—524.18(325A) as follows:

761—524.18(325A) Hearings. A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13. The request for a hearing shall be submitted in writing to the director of the ~~office of vehicle and motor carrier services~~ bureau. The request shall include, as applicable, the motor carrier's name, permit or certificate number, complete address and telephone number. The request must be submitted within 20 days after the date of the notice of suspension, revocation or denial.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to driver's license examinations
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 604, "License Examination," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.193 and 321.210.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.186, 321.193, 321.196 and 321.210.

Purpose and Summary

This proposed rule making relates to driver's license examinations and aligns with existing legal authority and Department practice, updates contact information, eliminates outdated or irrelevant requirements or options, and accommodates modern procedures. The most significant changes to Chapter 604 are explained in the following paragraphs.

The proposed amendments change several requirements related to vision screening conditions and associated restrictions. The amendments clarify at what visual acuity score a person will be referred to a vision specialist for further screening, strike outdated language requiring the Department to affix a sticker to an applicant's driver's license, and provide that a temporary driving permit shall not be issued for more than 60 days from the end of the license validity, which aligns with the current grace period for an expired driver's license in Iowa Code section 321.196.

The proposed rule making rescinds rule 761—604.22(321), which concerns knowledge test results, because it is outdated, but part of the content of the rule is updated and added as new subrule 604.20(4) to align with current Department practice that at least one business day must have elapsed before a person can retake a failed knowledge test.

The proposed amendments update subrules 604.21(2) and 604.31(2) related to knowledge and driving test waivers to include current Department practice related to knowledge and drive testing when an applicant is seeking to renew a driver's license within one year after its expiration date or within one year without a valid driver's license. Iowa Code section 321.196(2) provides that a driver's license is renewable without a driving test or written examination within a period of one year after the license's expiration date. Iowa Code section 321.196(2) provides that once a person's driver's license has been expired or is invalid for more than one year, testing is required to regain the license. Some of the reasons

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a person may hold an expired driver's license or have an invalid license for one year could be due to relocation or due to a driver's license sanction. The proposed amendments to subrules 604.21(2) and 604.31(2) clarify that knowledge and drive testing would be required to regain the license if it has been expired or invalid for more than one year. The proposed amendment to subrule 604.31(2) also clarifies that a certificate of completion for motorcycle rider education or motorized bicycle education may be used to waive the driving test for more than just the first time the license was issued, which allows an applicant who chooses to attend a subsequent motorcycle rider education course or motorized bicycle education course to use that new certificate of completion to waive a subsequent skills test. This change accommodates motorcycle license applicants who would prefer to take another motorcycle rider education course rather than taking a motorcycle skills test with the Department.

The proposed amendment to paragraph 604.30(1)“a” relating to the vehicle requirements for a driving test aligns with current Department practice requiring a person to provide proof of financial responsibility for the vehicle the person is seeking to use during the driving test.

This proposed rule making also relates to a special reexamination of a driver's licensee. A reexamination may occur when a licensee has been involved in an accident, including a fatal motor vehicle accident, or when an investigating officer's report of the accident(s) lists certain contributing factors. Rule 761—604.50(321) is proposed to be amended as follows:

- To add cognitive screening to the list of requirements that may accompany a special reexamination. Iowa Code section 321.186(3) authorizes the Department to examine an applicant for a driver's license, including a mental examination necessary to determine an applicant's fitness to operate a motor vehicle safely. The Department currently utilizes the nationally recognized Driver Orientation Screen for Cognitive Impairment (DOSCI) and the Safe Driving Basics (SDB) programs for cognitive screening.
- To align the rule with the current practice when an investigating officer lists the underlying condition of the licensee as “fatigue or asleep” in an accident report, which may result in a special reexamination after a single accident.
- To recognize that vision may be a contributing factor to an accident, thus requiring a special reexamination regardless of whether the accident occurred during the day or at night.
- To align with Iowa Code section 321.186, which authorizes the Department to require a special reexamination if the Department receives evidence that a licensee may be physically or mentally incapable of operating a motor vehicle safely.

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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

Tracy George
 Department of Transportation
 DOT Rules Administrator, Strategic Communications and Policy Bureau
 800 Lincoln Way
 Ames, Iowa 50010
 Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

April 16, 2020
 10 a.m.

Department of Transportation
 Motor Vehicle Division
 6310 S.E. Convenience Boulevard
 Ankeny, 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.

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 George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

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 761—604.3(17A) as follows:

761—604.3(17A) Information and forms.

604.3(1) Applications, forms, and information about driver's license examinations are available at any driver's license ~~examination station~~ service center. Assistance is also available from the ~~office of driver and identification services at the address in 761—600.2(17A)~~ bureau by mail at Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

604.3(2) The "Iowa Driver Manual" and the "Iowa Motorcycle Operator Manual" are also available from the department and on the department's website at www.iowadot.gov.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 2. Amend subrule 604.10(2) as follows:

604.10(2) Method. At driver's license ~~examination stations~~ service centers, a vision screening instrument shall be used to screen the applicant's vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

ITEM 3. Amend rule ~~761—604.10(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196 ~~as amended by 2013 Iowa Acts, House File 355, section 1.~~

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ITEM 4. Amend rule 761—604.12(321) as follows:

761—604.12(321) Vision referrals.

604.12(1) Referral.

a. If during any vision screening, an applicant ~~on first screening~~ cannot attain 20/40 with at least one eye but can attain 20/70 with at least one eye, the department shall not issue a license to the applicant. Instead, the department shall advise the applicant to consult a licensed vision specialist.

b. No change.

604.12(2) License.

a. ~~The department shall affix a sticker to the applicant's license stating: "Renewal or license issuance denied due to vision."~~

b. If the applicant's license is valid ~~for less than 30 days~~, the department may issue a temporary driving permit with restrictions appropriate to the applicant's visual acuity level and field of vision. If the applicant's license is valid for less than 30 days, the temporary driving permit is shall not be valid for not more than 30 60 days from the end of the current license validity.

604.12(3) and 604.12(4) No change.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

ITEM 5. Amend rule 761—604.13(321) as follows:

761—604.13(321) Vision screening results.

604.13(1) Two-year license. An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license. ~~This restriction may be waived by the department when a vision report pursuant to subrule 604.10(3) certifies that the vision has stabilized and is not expected to deteriorate.~~

604.13(2) No change.

604.13(3) Reapplication. An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and the applicant meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the office of driver and identification services bureau at the address in ~~761—600.2(17A)~~ subrule 604.3(1), ~~and not~~ or at a driver's license ~~examination station service center.~~

604.13(4) Discretionary issuance.

a. No change.

b. Based upon consideration of the applicant's ~~vision screening results~~ or vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) to (4) No change.

c. No change.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

ITEM 6. Adopt the following **new** subrule 604.20(4):

604.20(4) Retesting. An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least one business day shall elapse between tests.

ITEM 7. Amend subrule 604.21(2) as follows:

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa driver's license or an equivalent out-of-state license that is still valid or has expired within the past year.

b. and *c.* No change.

d. The applicant is renewing an Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.

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e. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

ITEM 8. Rescind and reserve rule ~~761—604.22(321)~~.

ITEM 9. Amend paragraph **604.30(1)“a”** as follows:

a. For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321) and proof of financial responsibility for the representative vehicle.

ITEM 10. Amend subrule 604.31(2) as follows:

604.31(2) *Driving test waivers.* The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

~~a.~~ The applicant is applying for the applicant's first Iowa driver's license that permits unaccompanied driving following successful completion of has successfully completed the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for a applicant's first Class C driver's license that permits unaccompanied driving other than motorized bicycle; ~~driver education and motorcycle rider education for a Class M driver's license or motorcycle endorsement~~ motorcycle rider education for a Class M driver's license or motorcycle endorsement; and motorized bicycle education for a motorized bicycle license. However, if an applicant is under the age of 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver's license or endorsement within ~~14 months~~ a period of one year after the expiration date of the license or endorsement.

c. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

~~e.~~ d. The applicant has passed the same type of driving test for another Iowa driver's license or endorsement that is still valid or has expired within the past ~~14 months~~ year.

~~f.~~ e. The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

f. g. The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

g. h. The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past year.

~~h.~~ i. The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past year.

~~i.~~ j. The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

ITEM 11. Amend paragraph **604.40(2)“b”** as follows:

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the ~~office of driver and identification services~~ bureau at the address in rule 761—600.2(17A) subrule 604.3(1).

ITEM 12. Amend rule 761—604.50(321) as follows:

761—604.50(321) Special reexaminations. The department may require a special reexamination consisting of a vision screening, cognitive screening, knowledge test and driving test of any licensee.

604.50(1) and **604.50(2)** No change.

604.50(3) The department may require a special reexamination when a licensee has been involved in ~~two accidents within a three-year period~~ an accident and the investigating ~~officers' reports for both~~

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~~accidents list~~ officer's report lists a driver condition for the licensee of ~~"apparently asleep."~~ "fatigue or asleep."

604.50(4) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

- a. to e. No change.
- f. The licensee's vision may be a contributing factor to ~~a nighttime an~~ an accident.
- g. No change.
- h. The investigating officer's report lists a driver condition for the licensee of "loss of consciousness."
- i. The investigating officer's report lists a driver condition for the licensee of "illness which resulted in the accident."

604.50(5) The department may require a special reexamination when ~~recommended~~ the department receives an accident report or a recommendation by a peace officer, a court, or a properly documented citizen's request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

- a. Loss of consciousness.
- b. Confusion, disorientation or dementia.
- c. Inability to maintain a vehicle in the proper lane.
- d. Repeatedly ignoring traffic control devices in a nonchase setting.
- e. Inability to interact safely with other vehicles.
- f. Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.
- g. Illness which resulted in an accident.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

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 March is 3.75%.

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 March 10, 2020, 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 .25%
180-364 days	Minimum .30%
One year to 397 days	Minimum .45%
More than 397 days	Minimum .55%

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:

April 1, 2019 — April 30, 2019	4.75%
May 1, 2019 — May 31, 2019	4.50%
June 1, 2019 — June 30, 2019	4.50%
July 1, 2019 — July 31, 2019	4.50%
August 1, 2019 — August 31, 2019	4.00%
September 1, 2019 — September 30, 2019	4.00%
October 1, 2019 — October 31, 2019	3.75%
November 1, 2019 — November 30, 2019	3.75%
December 1, 2019 — December 31, 2019	3.75%
January 1, 2020 — January 31, 2020	3.75%
February 1, 2020 — February 29, 2020	3.50%
March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%

ARC 5013C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

Proposing rule making related to prohibition of licensing sanctions for student loan default or delinquency and providing an opportunity for public comment

The Board of Veterinary Medicine hereby proposes to amend Chapter 5, "Public Records and Fair Information Practices," Chapter 6, "Application for Veterinary Licensure," and Chapter 10, "Discipline," Iowa Administrative Code.

VETERINARY MEDICINE BOARD[811](cont'd)

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 chapter 169.

Purpose and Summary

This proposed rule making will prohibit the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

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.

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 April 15, 2020. Comments should be directed to:

Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

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

April 15, 2020
8 to 9 a.m.

Second Floor Boardroom
Wallace State Office Building
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.

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.

VETERINARY MEDICINE BOARD[811](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. Rescind and reserve rule **811—5.18(17A,22,169,261)**.

ITEM 2. Rescind and reserve rule **811—6.8(169,261)**.

ITEM 3. Amend **811—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, and 169, ~~and 261~~.

ITEM 4. Rescind subparagraph **10.6(1)“b”(22)**.

ITEM 5. Renumber subparagraph **10.6(1)“b”(23)** as **10.6(1)“b”(22)**.

ITEM 6. Adopt the following **new** paragraph **10.6(1)“c”**:

c. The board shall not suspend or revoke a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ARC 4993C**WORKERS' COMPENSATION DIVISION[876]****Notice of Intended Action****Proposing rule making related to payroll tax tables and address and providing an opportunity for public comment**

The Workers' Compensation Commissioner hereby proposes to amend Chapter 1, "Purpose and Function," Chapter 4, "Contested Cases," Chapter 5, "Declaratory Orders," Chapter 7, "Petition for Rule Making," Chapter 8, "Substantive and Interpretive Rules," Chapter 9, "Public Records and Fair Information Practices," and Chapter 12, "Formal Review and Waiver of Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 85.61.

Purpose and Summary

These proposed amendments update references to the tables which determine payroll taxes and update the address of the Division of Workers' Compensation.

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.

WORKERS' COMPENSATION DIVISION[876](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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to rule 876—12.4(17A).

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 Commissioner no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

Heather Palmer
Division of Workers' Compensation
150 Des Moines Street
Des Moines, Iowa 50309
Email: heather.palmer@iwd.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 876—1.2(86,17A) as follows:

876—1.2(86,17A) Location. Interested persons may contact the Iowa Workers' Compensation Commissioner, ~~1000 East Grand Avenue (mailing address),~~ 150 Des Moines Street (~~physical location~~), Des Moines, Iowa ~~50319~~ 50309; telephone (515)725-4120 or 1-800-645-4583. The fax number is (515)281-6501. The website address is www.iowaworkforce.org/wc.

ITEM 2. Amend subrule 4.9(8) as follows:

4.9(8) Withdrawal of counsel. Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Division of Workers' Compensation, ~~1000 East Grand Avenue, Des Moines, Iowa 50319, when filing by mail, or~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309, ~~when filing in person,~~ within ten days following the date the notice was mailed or personally delivered to the client. The client's response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held.

WORKERS' COMPENSATION DIVISION[876](cont'd)

No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

ITEM 3. Amend rule 876—5.5(17A) as follows:

876—5.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Workers' Compensation Commissioner, ~~1000 E. Grand~~ 150 Des Moines Street, Des Moines, Iowa ~~50319-0209~~ 50309.

ITEM 4. Amend subrule 5.6(2) as follows:

5.6(2) Filing. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Workers' Compensation Commissioner, ~~1000 E. Grand, Des Moines, Iowa 50319, when filed by mail, or 150 Des Moines Street, Des Moines, Iowa 50319, when filed in person~~ 50309.

ITEM 5. Amend **876—Chapter 7**, preamble, as follows:

The worker's compensation division of workers' compensation the workforce development department hereby adopts the petition for rule making segments of the Uniform Administrative Rules, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to petitions for rule making which are printed in the first volume of the Iowa Administrative Code, with the following amendments published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website.

ITEM 6. Amend rule 876—7.1(17A) as follows:

876—7.1(17A) Petition for rule making.

In lieu of the words "designate office" insert "the Division of Workers' Compensation, Department of Workforce Development, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309."

In lieu of the words "AGENCY NAME", the heading on the petition form should read:

BEFORE THE DIVISION OF WORKERS' COMPENSATION

ITEM 7. Amend rule 876—7.3(17A) as follows:

876—7.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Division of Workers' Compensation, Department of Workforce Development, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 8. Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, ~~2019~~ 2020, through June 30, ~~2020~~ 2021, are the tables in effect on July 1, ~~2019~~ 2020, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (~~Internal Revenue Service, Employer's Supplemental Tax Guide, Publication 15-A [2018]~~ Federal Income Tax Withholding Methods, Publication 15-T [2019].)
2. ~~Iowa Withholding Tax Guide~~ Iowa income tax withholding for weekly pay period. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables [Effective January 1, 2019 2020].)
3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [~~2018~~ 2019].)

This rule is intended to implement Iowa Code section 85.61(6).

ITEM 9. Amend **876—Chapter 9**, preamble, as follows:

The workers' compensation division of the workforce development department hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on

WORKERS' COMPENSATION DIVISION[876](cont'd)

Uniform Rules of ~~on~~ Agency ~~procedure~~ Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website.

ITEM 10. Amend subrule 9.3(1) as follows:

9.3(1) Location of record. In lieu of the words "(insert agency head)", insert "commissioner". Also, in lieu of the words "(insert agency name and address)", insert "Division of Workers' Compensation, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309".

ITEM 11. Amend rule 876—9.6(17A,22,85-87) as follows:

876—9.6(17A,22,85-87) Procedure by which additions, dissents, or objections may be entered into certain records. Insert immediately following ". . . official record of any agency proceeding." the following sentence: "Any additions, dissents, or objections entered into the record shall not be considered evidence in a contested case proceeding." In lieu of the words "(designate office)", insert "the Division of Workers' Compensation, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309".

ITEM 12. Amend subparagraph **9.13(1)"d"(8)** as follows:

(8) Policy manuals. The agency employees' manuals are available in the administrative office of the agency. Subscriptions to all or part of the employees' manuals are available at the cost of production and handling. Requests for subscription information should be addressed to the Division of Workers' Compensation, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. Policy manuals may contain confidential information under Iowa Code section 17A.2(7) "f" or other applicable provision of law.

ITEM 13. Amend rule 876—12.3(17A) as follows:

876—12.3(17A) Form of criticism. The division of workers' compensation is designated as the office where interested persons may submit written criticism regarding an administrative rule of the Workers' Compensation Division[876]. Written criticism should be mailed or delivered to the Division of Workers' Compensation, ~~1000 East Grand Avenue, Des Moines, Iowa 50319;~~ or delivered to 150 Des Moines Street, Des Moines, Iowa 50319 50309. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the workers' compensation commissioner or department of workforce development, and have a valid legal basis for support. All criticisms received on any rule will be kept in a separate record for a period of five years by the workers' compensation commissioner and be a public record open for public inspection. All criticisms must substantially conform to the following form:

BEFORE THE WORKERS' COMPENSATION COMMISSIONER		
CRITICISM BY (NAME OF PERSON SUBMITTING CRITICISM).	}	CRITICISM OF (SPECIFY RULE THAT IS CRITICIZED).

Reasons for criticism:

Name, address, telephone number and signature of person submitting criticism.

ITEM 14. Amend rule 876—12.4(17A) as follows:

876—12.4(17A) Requests for waiver of rules. Requests for waiver of a rule in the Workers' Compensation Division[876] of the Iowa Administrative Code shall be made to the Workers' Compensation Commissioner, ~~1000 E. Grand, Des Moines, Iowa 50319, by mail;~~ or 150 Des Moines Street, Des Moines, Iowa 50319, in-person 50309. All requests for waiver of a rule must be in writing and are a public record open for inspection. The person requesting the waiver must submit all facts relied upon in requesting the waiver. The person requesting waiver of the rule must provide clear

WORKERS' COMPENSATION DIVISION[876](cont'd)

and convincing evidence that compliance with the rule will create an undue hardship on the person requesting the waiver. A concise memorandum brief and argument, if any is filed, shall be attached to the request for waiver at the time the request is filed. The workers' compensation commissioner shall grant or deny the waiver within 60 days of the date the request is filed with the agency. The workers' compensation commissioner shall deny the request if the request is for waiver of a statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The workers' compensation commissioner may deny the request if the request does not comply with the provisions of this rule. All requests for waiver must substantially conform to the following form:

BEFORE THE WORKERS' COMPENSATION COMMISSIONER

(NAME OF PERSON
REQUESTING WAIVER).



REQUEST FOR WAIVER OF (SPECIFY
RULE FOR WHICH WAIVER IS
REQUESTED).

Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.

ARC 5004C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to dependent adult abuse

The Inspections and Appeals Department hereby amends Chapter 52, “Dependent Adult Abuse in Facilities and Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 235E.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 235E.2 as amended by 2019 Iowa Acts, House File 304, and Iowa Code section 235E.5.

Purpose and Summary

The amendment implements changes made to Iowa Code chapter 235E resulting from 2019 Iowa Acts, House File 304, which added a citation to reference “personal degradation” as defined in Iowa Code section 235E.1(5)“a”(3) to the list of dependent adult abuses required to be reported that shall be collected and maintained by the Department of Human Services as an assessment only for a five-year period and shall not be included in the central registry or considered to be founded dependent adult abuse if determined by the Department of Inspections and Appeals to be minor, isolated, and unlikely to reoccur.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 29, 2020, as **ARC 4890C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Inspections and Appeals Department on March 5, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

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

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 April 29, 2020.

The following rule-making action is adopted:

Amend subrule 52.3(3) as follows:

52.3(3) Reports of abuse that is minor, isolated, and unlikely to reoccur.

a. Minor, isolated, and unlikely to reoccur—first instance. A report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. Minor, isolated, and unlikely to reoccur—subsequent instance(s). A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. No change.

[Filed 3/5/20, effective 4/29/20]

[Published 3/25/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5005C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to general industry safety and health rules

The Labor Commissioner hereby amends Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

Purpose and Summary

This amendment adopts by reference changes to the federal occupational safety and health standards for general industry. The federal changes correct errors in the standards for ladders, stairways, scaffolds and rope descent systems, and fall protection. The U.S. Occupational Safety and Health Administration was able to adopt these changes using expedited procedures for typographical and clerical errors.

The changes also modify the respiratory protection standard by adopting two additional quantitative fit testing protocols. The additional protocols will reduce compliance burdens and increase flexibility without endangering employee health. While the new protocols are set forth in the general industry standards, they also apply to the construction industry.

LABOR SERVICES DIVISION[875](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 29, 2020, as **ARC 4882C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on March 4, 2020.

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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

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 April 29, 2020.

The following rule-making action is adopted:

Amend rule **875—10.20(88)** by inserting the following at the end thereof:
84 Fed. Reg. 50755 (September 26, 2019)
84 Fed. Reg. 68795 (December 17, 2019)

[Filed 3/4/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5006C**LAW ENFORCEMENT ACADEMY[501]****Adopted and Filed****Rule making related to five-year review of rules**

The Law Enforcement Academy hereby amends Chapter 1, "Organization and Administration," Chapter 2, "Minimum Standards for Iowa Law Enforcement Officers," and Chapter 3, "Certification of Law Enforcement Officers"; rescinds Chapter 6, "Decertification," and Chapter 7, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts new Chapters 6 and 7 with the

LAW ENFORCEMENT ACADEMY[501](cont'd)

same titles; and amends Chapter 8, “Mandatory In-Service Requirements,” and Chapter 10, “Reserve Peace Officers.”

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 80B.11 and 80D.4A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 22.11, 80B.11 and 80D.4A.

Purpose and Summary

The Iowa Law Enforcement Academy has completed a five-year review of its administrative rules. The rules in Chapter 1 are amended to comply with changes made to the rules in Chapter 6. The rules in Chapter 2 are amended to provide clarity to law enforcement agencies and the public regarding qualifications necessary to become a certified officer in the State of Iowa. The rules in Chapter 3 are amended to reflect the current curriculum of the Law Enforcement Academy. The rules in Chapter 6 are amended to reflect the current decertification procedures employed by the Law Enforcement Academy. The rules in Chapter 7 are amended to assist the public in making records requests of the Law Enforcement Academy. The rules in Chapter 8 are amended to reflect changes made in the requirements for mandatory reporter training. The rules in Chapter 10 are amended to make the rules governing reserve peace officers consistent with the rules governing regular peace officers.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4866C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director on March 2, 2020.

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 Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

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 April 29, 2020.

LAW ENFORCEMENT ACADEMY[501](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule **501—1.1(80B)**, definitions of “Law enforcement officer” and “Presiding officer,” as follows:

“*Law enforcement officer*” means an officer appointed by the director of the department of natural resources; an officer appointed by the director of the Iowa law enforcement academy and sworn in for the purposes of training; a member of a police force or other agency or department of the state, county, or city regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state; and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.

“*Presiding officer*” means ~~the person or group presiding over a contested case~~ an administrative law judge employed by the Iowa department of inspections and appeals or the full council or a three-member panel of the council.

ITEM 2. Adopt the following new definitions of “Convicted” and “Proposed decision” in rule **501—1.1(80B)**:

“*Convicted*” or “*conviction*” means a finding of guilt, a plea of guilty, a deferred judgment, a deferred or suspended sentence, and an adjudication of delinquency as a juvenile.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full council did not preside.

ITEM 3. Amend subrule 1.6(4) as follows:

1.6(4) *Quorum and majority vote.* A quorum shall consist of two-thirds of the currently appointed voting members of the council. Action of the council must be approved by a simple majority of the voting members present.

ITEM 4. Rescind subrule 2.1(5) and adopt the following new subrule in lieu thereof:

2.1(5) Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude. “Moral turpitude” is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. Moral turpitude is conduct that is contrary to justice, honesty or good morals.

a. The following nonexclusive list of acts has been found by the Iowa law enforcement academy council to involve moral turpitude:

(1) Any felony. As used in this section, the word “felony” means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

(2) A misdemeanor crime of domestic violence as defined by Iowa Code section 724.26(2) “c,” or other offenses of domestic violence.

(3) An adjudication of delinquency as a juvenile based on conduct that would constitute a felony if committed by an adult.

(4) Assault or harassment.

(5) Stalking.

(6) Any offense in which a weapon was used in the commission.

(7) Income tax evasion.

(8) Perjury or its subornation.

(9) Theft, aggravated theft, fraudulent practices, robbery or burglary.

(10) Any sex crime or crime listed in Iowa Code chapter 709.

(11) Conspiracy or solicitation to commit a crime listed in this rule.

(12) Defrauding the government.

(13) Delivering, manufacturing or possessing with the intent to deliver or manufacture a controlled substance.

LAW ENFORCEMENT ACADEMY[501](cont'd)

(14) Convictions by any other state or by the federal government under statutes substantially corresponding to the crimes listed in this rule.

(15) Any crime as an adult that resulted in the requirement of being listed on a sex offender registry.

(16) An adjudication of delinquency as a juvenile based on conduct that would constitute a crime as an adult that resulted in the requirement of being listed on a sex offender registry.

b. In determining whether to grant a waiver of subrule 2.1(5) under rule 501—16.3(17A,80B), the council shall consider in its analysis of numbered paragraph “4” of rule 501—16.3(17A,80B):

(1) The nature and seriousness of the crime;

(2) The time elapsed since the crime was committed;

(3) The degree of rehabilitation which has taken place since the crime was committed;

(4) The likelihood that the person will commit the same crime again;

(5) The number of criminal convictions; and

(6) Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

ITEM 5. Amend paragraph **2.2(2)“a”** as follows:

a. The Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (MMPI-2) test shall be taken by all applicants in the final selection process for a law enforcement position.

ITEM 6. Adopt the following **new** paragraph **2.2(3)“c”**:

c. The administration of the Stanard & Associates’ National Police Officer Selection Test (POST) and the Minnesota Multiphasic Personality Inventory 2 (MMPI-2) shall be in accordance with directions of the Iowa law enforcement academy.

ITEM 7. Rescind and reserve subrule **2.2(4)**.

ITEM 8. Amend subrule 2.2(5) as follows:

2.2(5) Personality tests.

a. Those law enforcement agencies which choose to administer, score, or interpret the ~~MMPI~~ MMPI-2 without using the academy’s testing services shall forward to the academy psychological testing information on any individual hired within 14 days of the date hired. Such information shall include, but not be limited to, all scores from ~~MMPI~~ MMPI-2 scales used in the evaluation, the ~~MMPI~~ MMPI-2 answer sheet, and any resulting reports.

b. The Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (MMPI-2) test may be administered to applicants who are not in the final selection process.

ITEM 9. Amend paragraph **2.2(7)“b”** as follows:

b. Forwarding of Minnesota Multiphasic Personality Inventory (~~MMPI~~) 2 (MMPI-2) test results. The evaluation by the Iowa law enforcement academy of Minnesota Multiphasic Personality Inventory 2 tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

ITEM 10. Amend paragraph **2.2(8)“a”** as follows:

a. The Iowa law enforcement academy evaluations of the Minnesota Multiphasic Personality Inventory 2 may only be used for 12 months to comply with these testing rules. Any applicant who has not been hired or placed upon a civil service certified list within 12 months of taking the Minnesota Multiphasic Personality Inventory 2 test must retake the examination and, before the applicant is hired, the results of the examination must be considered by the hiring authority.

ITEM 11. Amend rule 501—3.3(80B) as follows:

501—3.3(80B) Standard certifying courses for approved law enforcement facilities. The standard certifying courses of study at an approved law enforcement training facility are:

1. The long course, consisting of ~~417~~ 620 hours to be completed within a ~~20-week~~ 25-week period; and

2. The short course, consisting of ~~326~~ 400 hours to be completed within a ~~16-week~~ 20-week period.

LAW ENFORCEMENT ACADEMY[501](cont'd)

ITEM 12. Amend subrule 3.4(1) as follows:

3.4(1) Have satisfactorily completed a two-year or four-year police science or criminal justice program of which at least 20 credit hours were dedicated to police science or criminal justice coursework at an accredited educational institution and documentation furnished to the academy.

ITEM 13. Rescind rule 501—3.5(80B) and adopt the following **new** rule in lieu thereof:

501—3.5(80B) Curriculum for long course.

3.5(1) Program administration 24 hours

- a. Duty assignments.
- b. Examinations.
- c. Family day.
- d. Graduation.
- e. Registration/orientation.
- f. Student advisor meeting.

3.5(2) Patrol procedures 55 hours

- a. Active shooter response training.
- b. Alcohol licensee compliance.
- c. Animal control procedures.
- d. Basic incident command (IS-100 and IS-700).
- e. Felony calls in progress (includes building searches).
- f. Fire calls.
- g. Gangs.
- h. Hazardous materials.
- i. Iowa system communication including NCIC (National Crime Information Center).
- j. Meth lab safety.
- k. Observation and perception.
- l. Patrol techniques and beat assignments.
- m. Radar enforcement.
- n. Radio communications.
- o. Terrorism awareness.
- p. Traffic direction.
- q. Traffic law enforcement.
- r. Weather preparedness.

3.5(3) Tactical skills 188 hours

- a. Chemical spray.
- b. Defensive tactics.
- c. Expandable baton training.
- d. Firearms (including 6 hours of night fire).
- e. Firearms training simulator.
- f. Risk management.
- g. Vehicle operations.
- h. Vehicle stops (including 2 hours of night vehicle stops).

3.5(4) Life skills 123 hours

- a. Below 100.
- b. Bloodborne pathogens.
- c. Blue courage.
- d. Crisis intervention training.
- e. Critical incident stress management.
- f. Federal color of law (aspects of use of force).
- g. Iowa law enforcement emergency care provider (minimum of 32 hours of classroom).
- h. Mental health emergencies.
- i. Physical training.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- j. Special needs population.
- k. Stress management.
- l. Survival awareness.

3.5(5) Investigation. 112 hours

- a. Bombing and arson.
- b. Burglary.
- c. Card fraud.
- d. Collision investigation.
- e. Crime scene search and recording.
- f. Death investigation.
- g. Document fraud.
- h. Domestic abuse investigation (including 4 hours of practical).
- i. Financial crimes.
- j. Fingerprinting.
- k. Forensic science and the DCI laboratory.
- l. Hate crimes.
- m. Human trafficking.
- n. Insurance fraud.
- o. Iowa lottery security.
- p. Iowa missing persons.
- q. Mandatory reporting of child and dependent adult abuse.
- r. Narcotics investigation.
- s. OWI enforcement (includes chemical testing, evidentiary breath testing device training and drug recognition for street officers).
- t. Photography.
- u. Sexual abuse investigation.
- v. Stalking.
- w. Standardized field sobriety testing.
- x. Street intoxication.
- y. Vehicle theft.

3.5(6) Legal topics 67 hours

- a. Civil liability.
- b. Confessions and admissions.
- c. Criminal law.
- d. Juvenile law.
- e. Law of arrest.
- f. Motor vehicle law.
- g. Narcotics law.
- h. OWI legal.
- i. Peace officer and management rights.
- j. Procedural due process.
- k. Rules of evidence.
- l. Search and seizure.
- m. Use of force.

3.5(7) Communication skills 36 hours

- a. Deaf culture.
- b. Death notification.
- c. Interviews and interrogations.
- d. Moot court.
- e. Report writing and investigative note-taking.
- f. Social media.
- g. Testifying in court.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- h.* Verbal defense and influence.
- 3.5(8) Foundations of American policing** 15 hours
 - a.* Community relations.
 - b.* Court organization.
 - c.* Cultural competency.
 - d.* Discretion.
 - e.* Ethics and professionalism.
 - f.* Jail operations/corrections/civil process.
 - g.* Race relations.
 - h.* Unbiased policing.

TOTAL HOURS: 620

This rule is intended to implement Iowa Code section 80B.11.

ITEM 14. Rescind rule 501—3.6(80B) and adopt the following **new** rule in lieu thereof:

501—3.6(80B) Curriculum for short course.

- 3.6(1) Program administration** 16 hours
 - a.* Examinations.
 - b.* Graduation.
 - c.* Registration/orientation.
- 3.6(2) Patrol procedures** 35 hours
 - a.* Active shooter response training.
 - b.* Basic incident command.
 - c.* Felony calls in progress (includes building searches).
 - d.* Gangs.
 - e.* Hazardous materials.
 - f.* Iowa system communication including NCIC.
 - g.* Meth labs.
 - h.* Radar enforcement.
 - i.* Radio communications.
 - j.* Traffic direction.
- 3.6(3) Tactical skills** 128 hours
 - a.* Chemical spray.
 - b.* Defensive tactics.
 - c.* Expandable baton training.
 - d.* Firearms (including 6 hours of night fire).
 - e.* Vehicle operations.
 - f.* Vehicle stops (including 2 hours of night vehicle stops).
- 3.6(4) Life skills** 73 hours
 - a.* Below 100.
 - b.* Bloodborne pathogens.
 - c.* Blue courage.
 - d.* Crisis intervention training.
 - e.* Iowa law enforcement emergency care provider (minimum of 32 hours of classroom).
 - f.* Mental health.
 - g.* Physical training.
- 3.6(5) Investigation** 56 hours
 - a.* Collision investigation.
 - b.* Crime scene search and recording.
 - c.* Card fraud.
 - d.* Death investigation.
 - e.* Domestic abuse investigation (including 2 hours of practical).
 - f.* Fingerprinting.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- g. Human trafficking.
- h. Iowa lottery security.
- i. Mandatory reporting.
- j. Narcotics investigation.
- k. OWI enforcement (includes chemical testing, evidentiary breath testing device training and drug recognition for street officers).
- l. Photography.
- m. Sexual abuse investigation.
- 3.6(6) Legal topics 57 hours**
- a. Confessions and admissions.
- b. Criminal law.
- c. Juvenile law.
- d. Law of arrest.
- e. Motor vehicle law.
- f. Narcotics law.
- g. OWI legal.
- h. Rules of evidence.
- i. Search and seizure.
- j. Use of force.
- 3.6(7) Communication skills 29 hours**
- a. Interviews and interrogations.
- b. Report writing and investigative note-taking.
- c. Testifying in court.
- d. Verbal defense and influence.
- 3.6(8) Foundations of American policing 6 hours**
- a. Cultural competency.
- b. Ethics and professionalism.
- c. Unbiased policing.

TOTAL HOURS: 400

This rule is intended to implement Iowa Code section 80B.11.

ITEM 15. Rescind 501—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECERTIFICATION

501—6.1(80B) Scope of rules. The rules contained in this chapter pertaining to practices and procedures are designed to implement the requirements of Iowa Code chapters 80B and 17A. These rules shall govern the practice, procedures, and conduct of contested case proceedings held in the revocation of a law enforcement officer’s certification.

501—6.2(80B,80D) Grounds for revocation.

6.2(1) Mandatory revocation. The council shall revoke a law enforcement officer’s certification or a reserve peace officer’s certification if:

- a. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of a felony;
- b. The law enforcement officer or reserve peace officer manufactures, sells, or conspires to manufacture or sell an illegal drug other than an authorized act in connection with official duties;
- c. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of a crime constituting a misdemeanor crime of domestic violence or other domestic abuse including other offenses or lesser included offenses stemming from domestic abuse;
- d. The law enforcement officer or reserve peace officer pleads guilty to or is convicted of any offense classified as a tier I, tier II, or tier III sex offense in Iowa Code chapter 692A.

LAW ENFORCEMENT ACADEMY[501](cont'd)

6.2(2) Discretionary revocation. The director or the director's designee shall have the authority to conduct a preliminary inquiry and shall have the authority to determine which matters shall be referred to the council for consideration. The council, at its discretion, may revoke or suspend a law enforcement officer's or a reserve peace officer's certification under any of the following circumstances:

a. The law enforcement officer or reserve peace officer has been discharged for "good cause" from employment as a law enforcement officer or from appointment as a reserve peace officer.

b. The law enforcement officer or reserve peace officer leaves, voluntarily quits, or the officer's position is eliminated when disciplinary action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve peace officer being removed for "good cause."

c. The law enforcement officer or reserve peace officer:

(1) Makes, tenders, or certifies to a material false statement in a document prescribed by the academy or otherwise provided for or authorized by these rules, or in any other document intended to induce the academy or the council to take or withhold action.

(2) Falsifies or makes misrepresentations on an employment application submitted to any Iowa law enforcement agency or any other public document required to be completed by the officer.

(3) Testifies falsely in any court of law or administrative hearing.

(4) Commits any act of moral turpitude as defined in 501—subrule 2.1(5). A copy of the record of conviction of or plea of guilty to a crime of moral turpitude shall be conclusive evidence; however, a conviction or plea of guilty is not required.

(5) Uses or possesses an illegal substance other than in connection with official duties.

(6) Fails to comply with the requirements of 501—Chapters 8 and 10 relative to in-service training.

(7) Is decertified in any other state where the law enforcement officer or reserve peace officer may be certified.

d. The law enforcement officer has failed to reimburse the employing agency for costs incurred by that agency, including fees paid to the academy, clothing vendor costs, meal costs, uniform/equipment costs, and the officer's salary paid during the academy if the officer leaves that agency and is employed by another law enforcement agency within a period of four years following completion of the certification training, under the following conditions:

(1) A written agreement or contract of employment must be entered into by the officer and the employing agency contemporaneously with the date of employment. The agreement shall specifically provide for the reimbursement to the employing agency by the officer of the costs of training incurred by the employing agency, including fees paid to the Iowa law enforcement academy, clothing vendor costs, meal costs, uniform/equipment costs, and the officer's salary paid during the academy. The agreement must:

1. Specify the amount of reimbursement that the officer agrees to pay;

2. Set forth the time period within which this reimbursement will be made, which shall be on a declining scale similar to the provisions of Iowa Code section 384.15(7);

3. Contain a statement that if reimbursement is not made in accordance with the agreement, the officer understands that the employing agency may at its option seek the officer's decertification as an Iowa law enforcement officer; and

4. Contain a provision to the effect that the agreement or contract of employment is for bona fide employment of the officer and not for the purpose of achieving certification for the officer by way of "sponsorship" through the academy.

(2) A recommendation for decertification must be verified under oath by the administrator of the employing agency with which the officer contracted under this rule. The recommendation for decertification must contain the following information:

1. Have attached a copy of the agreement referred to in subparagraph 6.2(2)"d"(1) above;

2. Include an order of judgment from a small claims or civil court;

3. State that the officer has not made reimbursement to the employing agency as provided in the agreement, and clearly describe the nature of the default;

4. List an accounting of all payments made by the officer to the employing agency under the agreement, and specify the balance due;

LAW ENFORCEMENT ACADEMY[501](cont'd)

5. State that written notice of the default or judgment has been given to the officer, that the officer has been provided opportunity to correct the default, and that there remains no reasonable alternative to decertification;

6. Specifically recommend that the council commence proceedings to decertify the officer, and state that the employing agency will do all things necessary to cooperate in this effort; and

7. Set out the last-known address of the officer, the officer's telephone number, and the officer's last-known place of employment.

(3) The recommendation for decertification must be submitted to the academy not more than one year after the date of the officer's default, unless the council, upon written application and for good cause shown, grants further time in which to submit the recommendation.

501—6.3(80B,17A) Service and filing of pleadings and other papers.

6.3(1) *Computation of time and filing of documents.* The computation of time and filing of documents shall be in compliance with Iowa Code section 4.1(34).

6.3(2) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, simultaneously with its filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

6.3(3) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

6.3(4) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding shall be filed with the council at Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa 50131. All documents that are required to be served upon a party shall be filed simultaneously with the council and, if the presiding officer is not the council, at a location designated by the presiding officer.

6.3(5) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the council, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

6.3(6) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

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

(Date)

(Signature)

501—6.4(80B,17A) Prehearing procedures.

6.4(1) *Council subpoenas.* Prior to the commencement of a contested case, the council may exercise the authority to subpoena books, papers, and records and shall have all other subpoena powers conferred upon it by law.

6.4(2) *Commencement of contested case proceedings.* Contested case proceedings shall be commenced by the delivery of a notice by the council or its designee requiring the affected law enforcement officer to appear and show cause as to why certification to be a law enforcement officer in the state of Iowa should not be revoked or suspended. Notice may be given in the same manner as the service of original notice as provided in the Iowa Rules of Civil Procedure; by certified restricted mail, return receipt requested; by signed acknowledgment accepting service; or, when service cannot be accomplished using the aforementioned methods, notice of hearing shall be published once each

LAW ENFORCEMENT ACADEMY[501](cont'd)

week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the affected law enforcement officer. The first notice of hearing shall be published at least 30 days prior to the scheduled hearing.

The notice shall include:

- a. A statement of the time, place and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the grounds for revocation or suspension and relevant facts;
- e. Reference to the procedural rules governing conduct of the contested case proceeding; and
- f. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer.

Notice may also be sent in the manner aforementioned or by ordinary mail to any other interested party. After the delivery of the notice commencing the contested case proceedings, the presiding officer may allow further response of pleadings by the party as, in the presiding officer's discretion, is deemed necessary and appropriate.

6.4(3) Discovery. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in contested case proceedings.

e. The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to contested case proceedings. However, upon application by a party, the presiding officer may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceedings or impose an undue hardship.

f. Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.

g. A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the presiding officer relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

h. Evidence obtained in such discovery may be used in contested case proceedings if the evidence would otherwise be admissible in the contested case proceedings.

6.4(4) Presiding officer subpoenas. The presiding officer may issue subpoenas to a party on request, as permitted by law, compelling the attendance of witnesses and the production of books, papers, records or other real evidence.

6.4(5) Motions. No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

LAW ENFORCEMENT ACADEMY[501](cont'd)

a. Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer.

b. The presiding officer may schedule oral arguments on any motion.

c. Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

6.4(6) Prehearing conference. The presiding officer, upon its own motion or upon the written request of one of the parties, may, in the presiding officer's discretion and upon written notice, direct the parties to appear at a specified time and place before the presiding officer for a prehearing conference to consider:

a. The possibility or desirability of waiving any provision of these rules relating to contested case proceedings by written stipulation representing an informed mutual consent.

b. A necessity or desirability of setting a new date for hearing.

c. The simplification of issues.

d. The necessity or desirability of amending the pleadings for purposes of clarification, amplification or limitation.

e. The possibility of agreeing to the admission of facts, documents or records not substantially controverted, to avoid unnecessary introduction of proof.

f. The procedure at the hearing.

g. Limiting the number of witnesses.

h. The names and identification of witnesses and the facts each party will attempt to prove at the hearing.

i. Other matters as may aid in, expedite or simplify the disposition of the proceeding.

Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange witness and exhibit lists in advance of a prehearing conference.

501—6.5(80B,17A) Presiding officer.

6.5(1) The presiding officer assigned to render a proposed decision will be an administrative law judge employed by the Iowa department of inspections and appeals. However, the council in its discretion may elect to preside over a case in lieu of an administrative law judge.

6.5(2) Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the Iowa department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the council.

6.5(3) The council may deny the request only upon a finding that one or more of the following apply:

a. Neither the council nor any officer of the council under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

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

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

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

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

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

g. The request was not timely filed.

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

6.5(4) The council shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge, the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

LAW ENFORCEMENT ACADEMY[501](cont'd)

6.5(5) Unless otherwise provided by law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the council. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

6.5(6) Unless otherwise provided by law, the council, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

501—6.6(80B,17A) Disqualification.

6.6(1) A presiding officer or council member shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that:
 - (1) Is a party to the case, or an officer, director or trustee of a party;
 - (2) Is a lawyer in the case;
 - (3) Is known to have an interest that could be substantially affected by the outcome of the case; or
 - (4) Is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

6.6(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 and subrules 6.6(3) and 6.11(9).

6.6(3) In a situation where a presiding officer or council member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

6.6(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 6.6(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If the presiding officer determines that disqualification is appropriate, the presiding officer or council member shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 501—6.12(80B,17A) and seek a stay under rule 501—6.16(80B,17A).

501—6.7(80B,17A) Continuances. A party has no automatic right to a continuance or delay of the council’s hearing procedure or schedule. However, a party may request a continuance of the presiding officer prior to the date set for hearing. The presiding officer shall have the power to grant continuances.

LAW ENFORCEMENT ACADEMY[501](cont'd)

Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating or emergency circumstances.

501—6.8(80B,17A) Hearing procedures.

6.8(1) Contested case proceeding. Unless the parties to a contested case proceeding have by written stipulation representing an informed mutual consent waived the provisions of the Act relating to the proceedings, contested case proceedings shall be initiated and culminate in an evidentiary hearing open to the public. Parties shall have been notified of the date and place of the hearing at least 30 days prior thereto.

a. Evidentiary hearings before the council shall be held at the council's principal office, Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa, except that a case may be assigned for hearing elsewhere when deemed necessary to afford a party an opportunity to appear at the hearing with as little inconvenience and expense as practicable.

b. Evidentiary hearings before an administrative law judge shall be held at an appropriate location designated by the department of inspections and appeals.

6.8(2) Conduct of the proceedings.

a. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings. If the presiding officer is the council or a panel thereof, an administrative law judge from the Iowa department of inspections and appeals may be designated to assist the council in conducting proceedings under this chapter. An administrative law judge so designated may rule upon motions and other procedural matters and assist the council in conducting the hearings.

b. Evidentiary proceedings shall be oral and open to the public and shall be recorded either by mechanical means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the appropriate costs. The record of the oral proceedings or the transcription thereof shall be filed with and maintained by the council for at least five years from the date of the decision.

6.8(3) All objections shall be timely made and stated on the record.

6.8(4) Legal representation.

a. The law enforcement officer has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law. If the law enforcement officer is not represented by anyone qualified by these rules to make an appearance, the presiding officer shall explain to the law enforcement officer the rules of practice and procedure and generally conduct a hearing in a less formal manner than that used when a law enforcement officer has a representative qualified to appear. It should be the purpose of the presiding officer to assist any law enforcement officer who appears without a representative to the extent necessary to allow a fair presentation of evidence, testimony and arguments on the issues.

b. The office of the attorney general or an attorney designated by the director shall be responsible for prosecuting contested case proceedings under this chapter. The assistant attorney general or other designated attorney assigned to prosecute the contested case shall not represent the council in that case but shall represent the public interest.

6.8(5) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in argument.

6.8(6) Witnesses may be sequestered during the hearing.

6.8(7) The presiding officer shall conduct the hearing in the following manner:

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

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

c. Parties shall present their cases in the sequence determined by the presiding officer;

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

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

501—6.9(80B,17A) Evidence.

6.9(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

6.9(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

6.9(3) Evidence in the proceeding shall be confined to the issues concerning allegations raised on the face of petition for decertification as to which the parties received notice prior to the hearing.

6.9(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

6.9(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

6.9(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

501—6.10(80B,17A) Default.

6.10(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

6.10(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

6.10(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 501—6.14(80B,17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

6.10(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

6.10(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

6.10(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

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6.10(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 501—6.12(80B,17A).

6.10(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

6.10(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

6.10(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 501—6.16(80B,17A).

501—6.11(80B,17A) Ex parte communication.

6.11(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the council or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

6.11(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

6.11(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

6.11(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 501—6.3(80B,17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

6.11(5) Council members acting as presiding officers may communicate with each other without notice or opportunity for parties to participate.

6.11(6) The director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 6.11(1).

6.11(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 501—6.7(80B,17A).

6.11(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each

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person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order (or disclosed). If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

6.11(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

6.11(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the department. Violation of ex parte communication prohibitions by department personnel shall be reported to (agency to designate person to whom violations should be reported) for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

501—6.12(80B,17A) Interlocutory appeals. Upon written request of a party or on its own motion, the council may review an interlocutory order of the presiding officer. In determining whether to do so, the council shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the council at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

501—6.13(80B,17A) Final decision.

6.13(1) When the council presides over the reception of evidence at the hearing, its decision is a final decision.

6.13(2) When the council does not preside over the reception of evidence at the hearing, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the council without further proceedings unless there is an appeal to, or review on motion of, the council within the time provided in rule 501—6.14(80B,17A).

6.13(3) Final decisions shall be served on the affected law enforcement officer using one of the following methods: the same manner as the service of original notice as provided in the Iowa Rules of Civil Procedure; by certified restricted mail, return receipt requested; by signed acknowledgment accepting service; or, when service cannot be accomplished using the aforementioned methods, notice of a hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the affected law enforcement officer. If the officer is represented by an attorney, the final decision shall be mailed to the attorney. The attorney may waive the requirement to serve the affected law enforcement officer through a written acknowledgment that the attorney is accepting service on behalf of the client.

501—6.14(80B,17A) Appeals and review.

6.14(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the council within 30 days after issuance of the proposed decision.

6.14(2) *Review.* The council may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

6.14(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the council. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;

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- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought; and
- e. The grounds for relief.

6.14(4) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The council may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

6.14(5) Scheduling. The council shall issue a schedule for consideration of the appeal.

6.14(6) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The council may resolve the appeal on the briefs or provide an opportunity for oral argument. The council may shorten or extend the briefing period as appropriate.

501—6.15(80B,17A) Application for rehearing.

6.15(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

6.15(2) Content of application. The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the council decision on the existing record and whether, on the basis of the grounds enumerated in subrule 6.14(4), the applicant requests an opportunity to submit additional evidence.

6.15(3) Time of filing. The application shall be filed with the council within 20 days after issuance of the final decision.

6.15(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the council shall serve copies on all parties.

6.15(5) Disposition. Any application for a rehearing shall be deemed denied unless the council grants the application within 20 days after its filing.

501—6.16(80B,17A) Stays of council actions.

6.16(1) When available.

a. Any party to a contested case proceeding may petition the council for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the council. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The director may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the council for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

6.16(2) When granted. In determining whether to grant a stay, the director or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5).

6.16(3) Vacation. A stay may be vacated by the issuing authority upon application of the council or any other party.

501—6.17(80B,17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties,

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without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

501—6.18(80B,17A) Reinstatement. Any person whose certification has been suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of suspension and this rule. Any person whose certification has been revoked is not eligible for reinstatement.

6.18(1) All proceedings for reinstatement shall be initiated by the law enforcement officer or reserve peace officer, who shall file with the academy council an application for reinstatement. Such application shall be docketed in the original case in which the certification was suspended. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the academy council.

6.18(2) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the academy council to determine that the basis for the suspension of the law enforcement officer's or reserve peace officer's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts shall be on the law enforcement officer or reserve peace officer seeking reinstatement.

6.18(3) An order denying or granting reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law.

These rules are intended to implement Iowa Code chapters 17A and 80B.

ITEM 16. Rescind 501—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

501—7.1(17A,22) Definitions. As used in this chapter:

“Agency” means the Iowa law enforcement academy.

“Confidential record” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Custodian” means the Iowa law enforcement academy, or a person lawfully delegated authority by the Iowa law enforcement academy to act for the agency in implementing Iowa Code chapter 22.

“Open record” means a record other than a confidential record.

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

“Record” means the whole or a part of a public record as defined in Iowa Code section 22.1.

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

501—7.2(17A,22) Statement of policy. This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices

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Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

501—7.3(17A,22) Requests for access to records.

7.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131.

7.3(2) Office hours. Open records shall be available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

7.3(3) Request for access. A request for access to open records may be made in writing, by electronic mail, in person or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

7.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 501—7.6(17A,22) and other applicable provisions of law.

7.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

7.3(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.

7.3(7) Fees.

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search and supervisory fees. Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

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(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

501—7.4(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

7.4(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

7.4(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

7.4(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

7.4(4) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

7.4(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

7.4(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period

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of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

501—7.5(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Iowa law enforcement academy. The request to review such a record or the written statement of such a record of additions, dissents or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

501—7.6(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 501—7.3(17A,22).

7.6(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

7.6(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

7.6(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

7.6(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a.* The name and title or position of the custodian responsible for the denial; and
- b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

7.6(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

501—7.7(17A,22) Notice to suppliers of information. The agency shall notify persons completing agency forms of the use that will be made of personal information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the form used to collect the information, on a separate fact sheet

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or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law, or similar demands for information.

501—7.8(17A,22) Disclosures without the consent of the subject.

7.8(1) Open records are routinely disclosed without the consent of the subject.

7.8(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 501—7.9(17A,22) or in any notice for a particular record system.

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

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

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

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

501—7.9(17A,22) Routine use.

7.9(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

7.9(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

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

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

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

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

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

501—7.10(17A,22) Consensual disclosure of confidential records. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure

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must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

501—7.11(17A,22) Release to subject.

7.11(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 501—7.5(17A,22). However, the agency need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)
- d. Examination may be withheld as defined in Iowa Code section 22.7(19).
- e. Decertification requests or information concerning decertification procedures under Iowa Code section 80B.13(8) and 501—Chapter 6.
- f. As otherwise authorized by law.

7.11(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

501—7.12(17A,22) Availability of records.

7.12(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

7.12(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes or audio recordings of closed meetings of a government body. (Iowa Code section 21.5(5))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“e.”
- f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements; or in the selection or handling of cases such as operational tactics or allowable tolerances, or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:
 - (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2(11)“f” and 17A.3(1)“d.”)
- g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.
- h. Examinations and results. (Iowa Code section 22.7(19))

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- i.* Agency instructional outlines when disclosure would be prohibited by Iowa Code section 17A.2(11)“f.”
- j.* Criminal investigative reports. (Iowa Code section 22.7(5))
- k.* Computer resource security files containing names, identifiers, and passwords of users of computer resources. Such files must be kept confidential to maintain security for access to confidential records pursuant to Iowa Code section 22.7. (Iowa Code section 22.7(50))
- l.* Data or information collected for the purpose of assessing, analyzing, measuring, preparing for, or responding to suspected, potential, or actual information security threats. (Iowa Code section 22.7(50))
- m.* Detailed security audit information. Such information includes but is not limited to security assessment reports; information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of the office. (Iowa Code section 22.7(50))
- n.* Information security data, information security proposals, or information security assessments compiled, prepared, or developed by a governmental body, or compiled, prepared, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.7(50))
- o.* Data processing software, as defined in Iowa Code section 22.3A, which is developed by a government body, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.3A(2)“a”)
- p.* Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to the disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.
- q.* Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

501—7.13(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in a records system as defined in rule 501—7.1(17A,22). Unless otherwise stated, the authority for the Iowa law enforcement academy to maintain the record is provided by Iowa Code chapter 80B, the statutes governing the subject matter of the record.

For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

7.13(1) Law enforcement officer personal files. The Iowa law enforcement academy is charged by Iowa Code chapter 80B to establish training and hiring standards and to certify individuals as law enforcement officers in the state of Iowa. Training records, law enforcement officer status, and personal questionnaires are necessary to accomplish the mandate of Iowa Code chapter 80B.

These personal files contain information about past and present law enforcement officers in the state. These files may contain hiring and termination information, personal questionnaires and status changes (required by rule 501—3.1(80B) and rule 501—3.2(80B)), medical information showing compliance with rule 501—2.1(80B) and rule 501—2.2(80B) as authorized by Iowa Code section 80B.11, criminal history data, restoration of citizenship records, pardon records, training records, test scores, disciplinary reports and evaluation reports prepared during recruit training, decertification requests, and investigative reports. These files may also contain published articles concerning an individual officer and other data relevant to a law enforcement officer’s career in law enforcement.

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Some of these records may be confidential under Iowa Code section 22.7 or Iowa Code chapter 692. Law enforcement officer personal records are stored in both paper and computerized form.

7.13(2) Decertification files. These files are maintained pursuant to Iowa Code section 80B.13(8). These files contain requests or inquiries made by hiring authorities concerning decertification of a person who is certified as a law enforcement officer in the state of Iowa. The Iowa law enforcement academy also has independent authority pursuant to Iowa Code section 80B.13(8) to revoke a law enforcement officer's certification for conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to Iowa Code section 80B.11(1) "h." These files may contain official administrative or court filings or records, investigative reports, criminal history data, and attorney-client work product concerning possible or impending litigation. Some of this information may be confidential under Iowa Code sections 17A.2 and 22.7, Iowa Code chapter 692, constitutional restraints, statute and the Code of Professional Responsibility. Except as previously noted, administrative hearing filings or records and court records or filings are public records. This information is stored in paper and computerized forms.

7.13(3) Litigation files. These files or records contain information regarding litigation, or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wanting to obtain copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. Copies of pleadings and other documents filed in litigation with the Iowa law enforcement academy may be obtained from the Iowa law enforcement academy during normal business hours as these documents are public records. These records are maintained in paper and computerized forms.

7.13(4) Personnel files. The agency maintains files containing information about present and former employees, families and dependents, and applicants for positions with the agency. These files include payroll records, attendance records, psychological testing results, biographical information, background investigative reports and fingerprint checks, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code sections 22.7(7) and 22.7(11) and chapter 692.

7.13(5) Library user files. These files contain information on individuals who have checked out books, films, tapes, etc. from the Iowa law enforcement academy library. This information is confidential pursuant to Iowa Code section 22.7(13). This information is kept in paper form and may appear in computerized form.

7.13(6) Law enforcement class files. These files contain information concerning individuals who have attended training classes established by the Iowa law enforcement academy. These files may contain grade information, class rosters, class schedules, class tests, photographs of class members, and disciplinary information. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

7.13(7) Implied consent training files. These files contain information concerning those officers who are certified to invoke implied consent pursuant to Iowa Code chapter 321J. These files are public records and are accessible during normal working hours. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

7.13(8) Specialized instructor files. These files contain information concerning individuals who have attended specialized training programs or through experience are qualified to instruct in specialized areas of law enforcement. These records may be retrieved by personal identifier or through class name. Some of this information may be confidential pursuant to Iowa Code section 22.7. These records are kept in both computerized and paper form.

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7.13(9) *Psychological testing.* These files contain information concerning a law enforcement applicant's test scores regarding cognitive and personality tests mandated by Iowa Code section 80B.11(1) "g." In these files other psychological examinations requested by hiring agencies are also stored by a personal identifier. Some of this information may be confidential pursuant to Iowa Code section 22.7(19). Law enforcement officers interested in the results of their psychological testing should contact the hiring agency that authorized the testing. This information is maintained in both computerized and paper form.

7.13(10) *Contract file.* This file contains information concerning contracts between the Iowa law enforcement academy and outside agencies or individuals. Some of this information may be confidential pursuant to Iowa Code section 22.7(6). These records are kept in paper form or computerized form.

7.13(11) *Salary files.* These files contain information concerning financial data regarding payments made to permanent or temporary employees of the Iowa law enforcement academy. These records are maintained concurrently by the Iowa law enforcement academy, the Iowa department of administrative services, and the Iowa department of revenue. These records are kept in paper and computerized form.

501—7.14(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than a record system as defined in rule 501—7.1(17A,22). These records are routinely available to the public; however, the agency's files of these records may contain confidential information as discussed in rule 501—7.12(17A,22). The records listed may contain information about individuals. All records are stored on paper and in computer systems unless otherwise noted.

7.14(1) *Council records.* Agendas, minutes, and materials presented to the Iowa law enforcement academy council are available at the Iowa law enforcement academy, except those records concerning executive sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.5.

7.14(2) *Administrative records.* This includes documents concerning budget, property inventory, reservation and use of facility space, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions, and income sources such as psychological testing fees, petty cash, tuition, film rentals, and room rentals.

7.14(3) *Publications.* The office receives a number of books, periodicals, videotapes, films, newsletters, government documents, etc. These records are maintained in the library established pursuant to Iowa Code section 80B.15 for use by law enforcement training centers and institutions who have a two-year program in law enforcement. Some of these records may be protected by copyright law. Many of these publications of general interest are available in the state law library.

7.14(4) *Rule-making records.* Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

7.14(5) *Office manuals.* Information in office manuals such as the instructor outlines or policy manuals may be confidential under Iowa Code section 17A.2(11) "f" or other applicable provision of law.

7.14(6) *Office publications.* The agency maintains statistical reports and other written documentation to educate the public about the Iowa law enforcement academy to be used in program planning and budget projections.

7.14(7) *Legislative files.* These files keep a record of bills being considered by the Iowa legislature each legislative session. These records are public records and can best be obtained by contacting the Iowa house or senate bill room at the state capitol.

7.14(8) *Research files.* These files are kept as working files to research and scrutinize different concerns particular to law enforcement and the academy's training and rule-making obligations. Some of this information is confidential as attorney-client work product, as under Iowa Code section 17A.2 or 22.7, or other applicable provisions of law.

7.14(9) *All other records.* Records are open if not exempted from disclosure by law.

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501—7.15(17A,22) Data processing systems. None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

These rules are intended to implement Iowa Code chapters 17A and 22.

ITEM 17. Adopt the following **new** subrule 8.1(5):

8.1(5) Mandatory reporter training.

a. Pursuant to Iowa Code sections 232.69(1)“b”(11) and 232.69(3)“b,” a peace officer shall complete at least two hours of additional child abuse identification and reporting training every three years. If the peace officer completes at least one hour of additional child abuse identification and reporting training prior to the three-year expiration period, the peace officer shall be deemed in compliance with the training requirements of this rule for an additional three years.

b. Pursuant to Iowa Code sections 235B.3(2)“b” and 235B.16(5)“b,” a peace officer shall complete at least two hours of additional dependent adult abuse identification and reporting training every three years. If the peace officer completes at least one hour of additional dependent adult abuse identification and reporting training prior to the three-year expiration period, the peace officer shall be deemed in compliance with the training requirements of this rule for an additional three years.

c. The elected or appointed official designated as the head of the agency employing the regular law enforcement officer shall ensure compliance with the training requirements of this subrule. The core training curriculum relating to the identification and reporting of child abuse or dependent adult abuse shall be developed and provided by the department of human services.

d. A child abuse or dependent adult abuse training certificate relating to the identification and reporting of child abuse or dependent adult abuse issued prior to July 1, 2019, remains effective and continues in effect as issued for the five-year period following its issuance.

ITEM 18. Amend paragraph **10.1(3)“b”** as follows:

b. Verification must be received by the council that a fingerprint check has been made with the Federal Bureau of Investigation and the division of criminal investigation of the Iowa department of public safety and that the applicant has ~~no record of a felony conviction or conviction of a crime involving moral turpitude.~~ not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5)“a.” Fingerprint check responses from these agencies must be dated not more than one year prior to the date of the receipt by the academy of the application to the council for certification.

ITEM 19. Amend rule 501—10.4(80D) as follows:

501—10.4(80D) Standards for certification. An applicant for certification to carry weapons as a reserve peace officer must be of good moral character and not have been convicted ~~of a felony or a crime involving moral turpitude.~~ (See subrule 2.1(5).) ~~The offenses of domestic abuse and stalking or other offenses of domestic violence, and any offense in which a weapon was used in the commission, are crimes involving moral turpitude.~~ or adjudicated of any offense listed in 501—paragraph 2.1(5)“a.”

ITEM 20. Amend subrule 10.100(5) as follows:

10.100(5) Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted ~~of a felony or a crime involving moral turpitude.~~ “Moral turpitude” is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person, or to society in general, contrary to the accepted and customary rule of right and duty between person and person. ~~Moral turpitude is conduct that is contrary to justice, honesty or good morals. The following nonexclusive list of acts has been held by the courts to involve moral turpitude: income tax evasion, perjury, insubordination, theft, indecent exposure, sex crimes, conspiracy to commit a crime, defrauding the government, and illegal drug offenses. The offenses of assault, domestic abuse, or other offenses of domestic violence, stalking, and any offense in which a weapon was used in the commission are crimes involving moral turpitude. Various factors, however, may cause an offense~~

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~~which is generally not regarded as constituting moral turpitude to be regarded as such, or adjudicated of any offense listed in 501—paragraph 2.1(5)“a.”~~

ITEM 21. Amend subrule 10.100(8) as follows:

~~**10.100(8)** Has vision corrected to 20/20. Vision tests conducted within 12 months before appointment or selection may be used. A person who performs policing duties alone and without the direct supervision of a certified regular law enforcement officer who is physically present with the reserve peace officer at all times must have uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20. Policing duties include but are not limited to responding to calls, making traffic stops, and patrolling the jurisdiction. Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20.~~

The applicant shall have color vision consistent with the occupational demands of law enforcement. An applicant's passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

a. and *b.* No change.

An individual with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, is not eligible to serve as a reserve peace officer in the state of Iowa.

[Filed 3/3/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5007C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacy practices

The Board of Pharmacy hereby amends Chapter 3, “Pharmacy Technicians,” Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” Chapter 13, “Telepharmacy Practice,” and Chapter 21, “Electronic Data and Automated Systems in Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 155A.13, 155A.13A, 155A.19 and 155A.33A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76, 155A.13, 155A.13A, 155A.19 and 155A.33A.

Purpose and Summary

These amendments:

- Replace the phrase “tech-check-tech program” with “technician product verification program” throughout the Board's rules,
- Require a nonresident pharmacy applicant to identify a registered location located in Iowa,
- Extend the time frame in which a pharmacy must respond to a request for original records from 48 to 72 hours,
- Amend language relating to requirements for closing a pharmacy which may be exempt in the event of an unforeseeable closure, and
- Simplify the rule relating to the delivery of prescription drugs.

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4695C**.

The Board received three comments regarding the rule making. Two comments were received from chain pharmacies (one of which also operates mail order pharmacies) in opposition to the language which would require that patient counseling, when required pursuant to rule 657—6.14(155A), be provided prior to the delivery of a patient's new or changed medication. The Board believes patient safety is best protected when the patient is counseled about the patient's new or changed medication prior to the medication being dispensed so that the patient has the opportunity to decline the medication if the patient wishes.

The third comment was submitted from the Iowa Pharmacy Association, which expressed support of the rule making and included this comment about the patient counseling: "While the revisions to 657—8.15(155A) Delivery of prescription drugs and devices contained in Item 8 do not substantively change the counseling requirements for delivery of prescription drugs, it is imperative the Board maintains strict regulation and enforcement of existing patient counseling requirements in Iowa. This is especially important when prescriptions are delivered, as losing face to face contact with a patient makes it harder to provide vital information, advice, and assistance regarding their medications. Without measured and effective regulation, pharmacist's ability to exercise professional judgment in the provision of patient counseling can be compromised."

Item 13 has been changed from the Notice to account for the amendment made to the Iowa Administrative Code in Item 3 of **ARC 4798C** (IAB 12/4/19). No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 26, 2020.

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 657—Chapter 34.

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 April 29, 2020.

The following rule-making actions are adopted:

PHARMACY BOARD[657](cont'd)

ITEM 1. Amend subrule 3.21(1) as follows:

3.21(1) Technical dispensing functions. A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13. Except as provided for an approved ~~tech-check-tech~~ technician product verification program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

ITEM 2. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Except for a certified pharmacy technician participating in an approved ~~tech-check-tech~~ technician product verification program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;
2. to 6. No change.

ITEM 3. Amend rule 657—6.8(124,155A) as follows:

657—6.8(124,155A) Prescription processing documentation. All prescriptions shall be dated and assigned a unique identification number that shall be recorded on the original prescription, except as provided in 657—subrule 21.5(1). The original prescription shall be retained by the pharmacy filling the prescription and shall be maintained in the original format as received by the pharmacy. Dispensing documentation shall include the date of fill or refill; the name, strength, and National Drug Code (NDC) of the actual drug product dispensed; and the initials or other unique identification of the pharmacist, pharmacist-intern, or technician in an approved ~~tech-check-tech~~ technician product verification program. Dispensing documentation shall be maintained and be readily available.

ITEM 4. Amend subrule 6.16(2) as follows:

6.16(2) Storage of records. Original hard-copy prescriptions and other pharmacy records shall be maintained by the pharmacy for a minimum of two years from the date of the record in accordance with this subrule.

a. Records shall be maintained within the licensed pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the licensed pharmacy department, including at a remote location, if the pharmacy has retained an electronic copy of the records in the pharmacy that is immediately available and if the original records are available within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

b. Records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department, including at a remote location, if the records are retrievable within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 5. Amend paragraph 7.6(1)“b” as follows:

b. Certified pharmacy technicians. Pursuant to the pharmacy's policies and procedures, a certified pharmacy technician may be granted access to the pharmacy department to perform authorized technical functions. In the absence of a pharmacist, a certified pharmacy technician may only dispense, deliver, or distribute a drug, including a compounded preparation and controlled substance, when the drug is verified by a pharmacist, including by a remote pharmacist, except as authorized in an approved ~~tech-check-tech~~ technician product verification program. A certified pharmacy technician may assist a licensed health

PHARMACY BOARD[657](cont'd)

care professional in locating a drug to meet the emergent needs of a patient but shall not provide final verification of the accuracy of the drug product obtained.

ITEM 6. Amend subrule 7.13(4) as follows:

7.13(4) Storage of records. Original hard-copy records shall be maintained by the pharmacy for a minimum of two years from the date of the record in accordance with this subrule.

a. Records shall be maintained within the pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the pharmacy department, including at a remote location, if the pharmacy has retained an electronic copy of the records in the pharmacy that is immediately available and if the original records are available within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

b. Records more than 12 months old may be maintained in a secure storage area outside the pharmacy department, including at a remote location, if the records are retrievable within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 7. Amend rule 657—8.9(124,155A) as follows:

657—8.9(124,155A) Records storage. Every record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such record or the date of last activity on the record unless a longer retention period is specified for the particular record.

8.9(1) Records less than 12 months old. Records shall be maintained within the licensed pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the licensed pharmacy department, including at a remote location, if the pharmacy has retained electronic copies of the records in the pharmacy that are immediately available and if the original records are available within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

8.9(2) Records more than 12 months old. Records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department, including at a remote location, if the records are retrievable within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 8. Rescind rule 657—8.15(155A) and adopt the following **new** rule in lieu thereof:

657—8.15(155A) Delivery of prescription drugs and devices. A prescription order may be delivered to a patient at any location licensed as a pharmacy. Alternatively, a pharmacy may use the mail, a common carrier, or personal delivery to deliver a prescription order to any location requested by the patient. A pharmacy that delivers prescription orders by one or more alternate methods shall have policies and procedures to ensure patient confidentiality, prescription order accountability, and proper storage of prescription orders during delivery. When counseling is required pursuant to rule 657—6.14(155A), oral counseling shall be provided before the prescription order is delivered to the patient. Documentation of the delivery of prescription orders shall be maintained by the pharmacy for at least two years from the date of delivery. The term “patient” includes the patient and the patient’s authorized representatives.

ITEM 9. Amend rule 657—8.24(155A) as follows:

657—8.24(155A) Documented verification. The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative. In an approved ~~tech-check-tech~~ technician product verification program, the checking technician shall provide, document, and retain a record of the final verification for the accuracy of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative.

PHARMACY BOARD[657](cont'd)

ITEM 10. Amend paragraphs **8.35(2)“d”** and **“e”** as follows:

- d.* Criminal and disciplinary history information; ~~and~~
- e.* Description of the scope of services provided by the pharmacy; and

ITEM 11. Adopt the following **new** paragraph **8.35(2)“f”**:

- f.* If the pharmacy is located outside of Iowa, identification of a registered agent located in Iowa.

ITEM 12. Amend subrule 8.35(7) as follows:

8.35(7) Closing or sale of a pharmacy. A closing pharmacy shall ensure that all pharmacy records are transferred to another licensed pharmacy that agrees to act as custodian of the records for at least two years. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy’s closing for delivery of the notifications to the pharmacist in charge, the board, the DEA, and pharmacy patients as required by this subrule. ~~However, the provisions of this subrule regarding prior notifications to the board, the DEA, and patients shall not apply in the case of a board approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.~~ The executive director may exempt a pharmacy from one or more of the notification requirements in the event of an unforeseeable closure.

- a. to h.* No change.

ITEM 13. Amend subrule 13.8(7) as follows:

13.8(7) Prohibited activities. In the physical absence of a pharmacist, the following activities are prohibited:

- a. to c.* No change.
- d.* Technician product verification program activities.
- e. and f.* No change.

ITEM 14. Amend rule **657—21.2(124,155A)**, definitions of “Pharmacist verification” and “Readily retrievable,” as follows:

“*Pharmacist verification*” or “*verified by a pharmacist*” means the accuracy of a prescription drug is verified by a pharmacist, pharmacist-intern, or technician in an approved ~~tech-check-tech~~ technician product verification program.

“*Readily retrievable*” means that hard-copy or electronic records can be separated out from all other records within ~~48~~ 72 hours of a request from the board or other authorized agent.

[Filed 3/3/20, effective 4/29/20]

[Published 3/25/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5008C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to changes in distributor facility managers

The Board of Pharmacy hereby amends Chapter 17, “Wholesale Distributor Licenses,” Chapter 42, “Limited Distributor Licenses,” and Chapter 43, “Third-Party Logistics Provider Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 155A.17, 155A.17A, 155A.40 and 155A.42.

PHARMACY BOARD[657](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76, 155A.17, 155A.17A, 155A.40 and 155A.42.

Purpose and Summary

The amendments provide the process by which a limited distributor, wholesale distributor, or third-party logistics provider (3PL) would notify the Board of a change in facility manager, and by which the license of the wholesale distributor or 3PL would be modified to reflect a change in facility manager. The amendments also correct references to the Iowa Code.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4691C**.

The Board received one comment from the Healthcare Distribution Alliance (HDA). The commenter suggested the Board extend the notification period from 10 days to 30 days to provide consistency with requirements in other states, requested clarification on the need for a background check for a temporary facility manager, and requested the Board modify its definition of “facility manager.” The Board declined to modify the ten-day notification requirement or the definition of “facility manager” but did agree that clarification language would be beneficial to make clear that a background check is not required to be completed for a temporary facility manager.

The Board made a change to subparagraph 17.3(3)“d”(2) in Item 3 (relating to wholesale distributors) and to subparagraph 43.3(5)“d”(2) in Item 5 (relating to 3PLs) to reflect the clarification relating to a background check for a temporary facility manager.

Adoption of Rule Making

This rule making was adopted by the Board on February 26, 2020.

Fiscal Impact

The Board cannot determine the number of wholesale distributor or 3PL licensees that will undergo a change in facility manager necessitating a change to the facility license.

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 657—Chapter 34.

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 April 29, 2020.

PHARMACY BOARD[657](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—17.1(155A) as follows:

657—17.1(155A) Purpose and scope. This chapter establishes the licensing requirements and standards applicable to a wholesale distributor of human prescription drugs as defined by Iowa Code section ~~155A.3(49)~~ 155A.3 and the Drug Supply Chain Security Act. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter.

ITEM 2. Amend rule **657—17.2(155A)**, definition of “Wholesale distribution,” as follows:

“*Wholesale distribution*” means the distribution of a drug to a person other than a consumer or patient, or the receipt of a drug by a person other than a consumer or patient, but does not include transactions identified in Iowa Code section ~~155A.3(48)~~ 155A.3 and DSCSA.

ITEM 3. Adopt the following **new** paragraph **17.3(3)“d”**:

d. Change in facility manager. When a wholesale distributor has a change in facility manager, a new facility manager shall be identified pursuant to this paragraph. If a permanent facility manager is not currently the facility manager of a licensed facility, the facility manager shall submit to a criminal background check.

(1) If a permanent facility manager has been identified at the time of the vacancy, a wholesale distributor license application identifying the new permanent facility manager, along with the appropriate fee, shall be submitted to the board within ten days of the vacancy.

(2) If no permanent facility manager has been identified at the time of the vacancy, a temporary facility manager shall be identified and notice of such shall be submitted in writing to the board within ten days of the vacancy. A temporary facility manager shall not be required to submit a fingerprint packet and signed waiver to facilitate a national criminal history check unless the temporary facility manager subsequently is identified as the permanent facility manager. Within 90 days of the vacancy, a permanent facility manager shall be identified and a wholesale distributor license application identifying the permanent facility manager, along with the appropriate fee, shall be submitted to the board.

ITEM 4. Adopt the following **new** subrule 42.3(8):

42.3(8) Change in facility manager. If a distributor has a change in facility manager, the licensee shall provide notice to the board on forms provided by the board within ten days of the change.

ITEM 5. Adopt the following **new** paragraph **43.3(5)“d”**:

d. Change in facility manager. When a 3PL has a change in facility manager, a new facility manager shall be identified pursuant to this paragraph. If a permanent facility manager is not currently the facility manager of a licensed facility, the facility manager shall submit to a criminal background check.

(1) If a permanent facility manager has been identified at the time of the vacancy, a 3PL license application identifying the new permanent facility manager, along with the appropriate fee, shall be submitted to the board within ten days of the vacancy.

(2) If no permanent facility manager has been identified at the time of the vacancy, a temporary facility manager shall be identified and notice of such shall be submitted in writing to the board within ten days of the vacancy. A temporary facility manager shall not be required to submit a fingerprint packet and signed waiver to facilitate a national criminal history check unless the temporary facility manager subsequently is identified as the permanent facility manager. Within 90 days of the vacancy, a permanent facility manager shall be identified and a 3PL license application identifying the permanent facility manager, along with the appropriate fee, shall be submitted to the board.

[Filed 3/3/20, effective 4/29/20]

[Published 3/25/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5009C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to expedited licensing of spouses of active duty military personnel

The Professional Licensure Division hereby amends Chapter 20, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4.

Purpose and Summary

2019 Iowa Acts, House File 288, amended Iowa Code section 272C.4, which governs the duties of the boards for establishing procedures to expedite the licensing of individuals who are veterans or actively serving in the military. This change in the Iowa Code directed the Division to establish procedures to expedite the licensing of spouses of active duty members of the military forces in cases in which the spouse is already licensed in another state where the professional and occupational licensing requirements are substantially equivalent to Iowa’s requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4654C**. A public hearing was held on October 1, 2019, at 9:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Division on February 24, 2020.

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

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

Review by Administrative Rules Review Committee

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Effective Date

This rule making will become effective on April 29, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend **645—Chapter 20**, title, as follows:
MILITARY SERVICE, ~~AND~~ VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY
SERVICE MEMBERS

ITEM 2. Amend rule 645—20.1(85GA,ch1116), parenthetical implementation statute, as follows:

645—20.1(85GA,~~ch1116~~ 272C) Definitions.

ITEM 3. Adopt the following new definition of “Spouse” in rule **645—20.1(272C)**:
 “*Spouse*” means a spouse of an active duty member of the military forces of the United States.

ITEM 4. Amend rule 645—20.2(85GA,ch1116), parenthetical implementation statute, as follows:

645—20.2(85GA,~~ch1116~~ 272C) Military education, training, and service credit.

ITEM 5. Amend rule 645—20.3(85GA,ch1116) as follows:

645—20.3(85GA,~~ch1116~~ 272C) Veteran and active duty military spouse reciprocity.

20.3(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 subrule shall be given priority and shall be expedited.

20.3(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 a spouse of an active duty member of the military forces of the United States.

20.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

20.3(4) The board shall promptly grant a license to the veteran applicant if the veteran applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant’s disciplinary or criminal background.

20.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran an applicant has not passed the required examination(s) for licensure, the veteran applicant may not be issued a provisional license, but may request that the licensure application be placed

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in pending status for up to one year or as mutually agreed to provide the ~~veteran~~ applicant with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

20.3(6) ~~A veteran~~ 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 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. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the ~~veteran~~ applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 6. Amend **645—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code section 272C.4 as amended by 2019 Iowa Acts, chapter 9.

[Filed 2/24/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5010C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure of mental health counselors

The Board of Behavioral Science hereby amends Chapter 31, "Licensure of 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 adopted under the authority provided in Iowa Code section 154D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154D.

Purpose and Summary

This rule making updates the name of the Association of Marriage and Family Therapy Regulatory Boards; changes the examination required for permanent mental health counselor licensure to the National Clinical Mental Health Counselor Examination effective January 1, 2022; clarifies that

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applicants completing their supervised experience must complete a minimum of two calendar years of supervised practice; clarifies the expectation that temporary licensees not practice independently; and adds the American Mental Health Counselors Association to the Board's education equivalency rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 6, 2019, as **ARC 4745C**. A public hearing was held on November 26, 2019, at 8:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. 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 December 12, 2019.

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

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 29, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "AMHCA" in rule **645—31.1(154D)**:

"AMHCA" means the American Mental Health Counselors Association.

ITEM 2. Amend rule **645—31.1(154D)**, definition of "AMFTRB," as follows:

"AMFTRB" means the Association of ~~Marital~~ Marriage and Family Therapy Regulatory Boards.

ITEM 3. Amend subrule 31.3(1) as follows:

31.3(1) ~~In~~ The applicant shall take and pass the following examinations in order to qualify for licensing, the applicant:

a. For a marital and family therapist license, ~~shall take and pass~~ the Association of ~~Marital~~ Marriage and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. ~~For a mental health counselor license shall take and pass the National Counselor Examination of the NBCC or the National Clinical Mental Health Counselor Examination of the NBCC. Prior to January 1, 2022, for a mental health counselor license or a temporary mental health counselor license, the~~

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National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.

c. Effective January 1, 2022, for a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

d. Effective January 1, 2022, for a mental health counselor license, the NCMHCE of the NBCC.

ITEM 4. Amend paragraph **31.5(1)“a”** as follows:

a. Be a minimum of two years ~~or the equivalent~~ of full-time, postgraduate supervised professional work experience in marital and family therapy.

ITEM 5. Amend subparagraph **31.6(2)“a”(10)** as follows:

(10) Professional orientation. Studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing. Studies in this area include, but are not limited to, the following:

1. and 2. No change.

3. Professional organizations (primarily ACA or AMHCA, ~~its~~ their divisions, and ~~its~~ their branches), including membership benefits, activities, services to members, and current emphases;

4. Ethical standards of the ACA or AMHCA and ~~their~~ the evolution of those standards, legal issues, and applications to various professional activities (e.g., appraisal and group work);

5. and 6. No change.

ITEM 6. Amend subparagraph **31.6(2)“b”(1)** as follows:

(1) Professional orientation and ethical practice. Studies that provide an understanding of all of the following aspects of professional functioning:

1. to 5. No change.

6. Professional organizations (~~i.e.~~, primarily ACA or AMHCA, ~~its~~ and their divisions, branches, and affiliates), including membership benefits, activities, services to members, and current emphases;

7. to 9. No change.

10. Ethical standards of ACA or AMHCA and related entities, and applications of ethical and legal considerations in professional counseling.

ITEM 7. Amend paragraph **31.7(1)“a”** as follows:

a. Be a minimum of two years ~~or the equivalent of full-time~~, of postgraduate supervised professional work experience in mental health counseling.

ITEM 8. Amend paragraph **31.10(3)“a”** as follows:

a. Meet the continuing education requirements of rule 645—32.2(272C) ~~and the mandatory reporting requirements of subrule 31.10(4)~~. A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

ITEM 9. Amend subrule 31.10(4) as follows:

31.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“b” in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph ~~“e.”~~ “d.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“b” in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph ~~“e.”~~ “d.”

~~c.—A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”~~

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~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.~~

~~d. c.~~ The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "~~a~~" to "~~e~~," "b," including program date(s), content, duration, and proof of participation.

~~e. d.~~ The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

~~f. e.~~ The board may select licensees for audit of compliance with the requirements in paragraphs "~~a~~" to "~~e~~," "d."

ITEM 10. Adopt the following new rule 645—31.19(154D):

645—31.19(154D) Temporary licensees. A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

[Filed 2/24/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5011C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to continuing education hours and mandatory reporter training

The Board of Behavioral Science hereby amends Chapter 32, "Continuing Education for Marital and Family Therapists and Mental Health Counselors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 section 147.10 and 2019 Iowa Acts, House File 606 and House File 731.

Purpose and Summary

This rule making implements 2019 Iowa Acts, House File 606, which removes any restriction on the number of continuing education hours a licensee may earn from online sources, and 2019 Iowa Acts, House File 731, which modifies mandatory child abuse and dependent adult abuse identification and reporting training requirements. This rule making also adds a month to the time frame in which licensees

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can count hours toward license renewal, and it adds a provision for board service to count toward a portion of a licensee's continuing education requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 6, 2019, as **ARC 4746C**. A public hearing was held on November 26, 2019, at 8:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. 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 December 12, 2019.

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

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 29, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Independent study" in rule **645—32.1(272C)**:
"Independent study" means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 32.3(1).

ITEM 2. Amend subrule 32.2(1) as follows:

32.2(1) The biennial continuing education compliance period shall extend for a ~~two-year~~ 25-month period beginning on ~~October~~ September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

ITEM 3. Amend paragraph **32.3(2)"a"** as follows:

a. Attendance at workshops, conferences, symposiums and ~~academic courses~~ webinars. ~~Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:~~

~~1 academic semester hour = 15 continuing education hours~~

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~~1 academic quarter hour = 10 continuing education hours~~

ITEM 4. Adopt the following **new** paragraph **32.3(2)“b”**:

b. Academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

ITEM 5. Reletter paragraph **32.3(2)“c”** as **32.3(2)“d.”**

ITEM 6. Adopt the following **new** paragraph **32.3(2)“c”**:

c. Completion of independent study courses that meet the general criteria in subrule 32.3(1).

ITEM 7. Amend relettered paragraph **32.3(2)“d”** as follows:

d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs which meet the criteria in 645—32.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

~~(4) Distance learning conferences or courses will be allowed if the following criteria are met:~~

~~1. The program is offered through electronic transmission.~~

~~2. The program allows for interaction between the presenter and the participants.~~

~~3. The program issues the participants an official transcript, certificate of attendance or verification of successful completion of the course which applies to the field of mental health counseling or marital and family therapy.~~

~~(5) Home study courses will be allowed if the following criteria are met:~~

~~1. The program is recognized by the National Board for Certified Counselors (NBCC) or American Association of Marriage and Family Therapy (AAMFT) or meets all of the criteria in 645—32.3(272C).~~

~~2. An official transcript, verification or certificate of completion is presented after successful completion of the course.~~

~~(6) Viewing multimedia presentations will be allowed if the following criteria are met:~~

~~1. There is a sponsoring group or agency.~~

~~2. There is a facilitator or program official present.~~

~~3. The program official may not be the only attendee.~~

~~4. The program meets all of the criteria in 645—32.3(272C).~~

~~(7) Computer-assisted instructional courses or programs pertaining to the practice of mental health counseling or marital and family therapy will be allowed if the following criteria are met:~~

~~1. The courses and programs are approved by the National Board for Certified Counselors (NBCC) or American Association of Marriage and Family Therapy (AAMFT) or their affiliates or meet all of the criteria in 645—32.3(272C).~~

~~2. An official transcript, certificate of completion, or verification that includes the following information is presented after successful completion of the course:~~

~~● Date course/program was completed.~~

~~● Title of the course/program.~~

~~● Number of course/program continuing education hours.~~

~~● Official signature or verification of the course/program sponsor.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~(8)~~ (4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

~~(9)~~ (5) Authoring papers, publications, and books. The licensee shall receive five hours of credit per page with a maximum of 20 hours of credit.

(6) Serving on a state or national professional board. The licensee shall receive a maximum of three hours of credit.

ITEM 8. Adopt the following new paragraphs **32.3(3)“c”** and **“d”**:

c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

[Filed 2/24/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

ARC 5012C

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Rule making related to dental care expenses

The Department of Veterans Affairs hereby amends Chapter 14, “Veterans Trust Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 35A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 35A.13.

Purpose and Summary

The rule making removes the \$2,500 maximum amount paid in a 12-month period for dental care and changes the maximum amount to \$10,000.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4864C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 21, 2020.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](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 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 April 29, 2020.

The following rule-making action is adopted:

Amend subrule 14.4(4) as follows:

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the veterans affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed ~~\$2,500~~ \$10,000 for dental care, \$500 for vision care, \$1,500 per ear for hearing care, and \$1,500 for prescription drugs. Lifetime maximum benefit: \$10,000.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of \$15,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

[Filed 2/26/20, effective 4/29/20]

[Published 3/25/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/25/20.

CHANGE TO FORMAT FOR SCHEDULED PUBLIC HEARING: ARC 4961C (NOTICE OF INTENDED ACTION)

The public hearing scheduled for Monday, April 13, 2020, at 1 p.m. regarding the Notice of Intended Action of proposed amendments to air quality rules in 567 Iowa Administrative Code is being changed to a conference call format. The Notice of Intended Action was published on March 11, 2020, in the Iowa Administrative Bulletin as **ARC 4961C**.

To participate in the public hearing on April 13, please call 866-685-1580 at 1 p.m. When prompted, enter conference code 5152425296#. Please note that there will no longer be a physical location for an in-person hearing. As specified in **ARC 4961C**, anyone may also provide written public comments regarding the proposal to the DNR until 4:30 p.m. on Monday, April 13, 2020. For questions, please contact Christine Paulson by email at Christine.paulson@dnr.iowa.gov or by phone at 515-725-9510.

**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 9 of the Governor's proclamation of disaster emergency issued March 19, 2020: <https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.03.19.pdf>

AGENCY	RULE	DELAY
Human Services Department[441]	amendments to chs 78, 79 [IAB 2/12/20, ARC 4899C]	Session delay: Effective date of March 18, 2020, delayed until the adjournment of the 2021 session of the General Assembly by the Administrative Rules Review Committee at its meeting held March 6, 2020. [Pursuant to §17A.8(9)]