IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XL NUMBER 20
March 28, 2018 Pages 2316 to 2425

CONTENTS IN THIS ISSUE

Pages 2325 to 2425 include **ARC 3697C** to **ARC 3722C**

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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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)

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
2018

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 27 '17	Jan. 17 '18	Feb. 6 '18	Feb. 21 '18	Feb. 23 '18	Mar. 14 '18	Apr. 18 '18	July 16 '18
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sep. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sep. 24
Mar. 23	Apr. 11	May 1	May 16	***May 16***	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	***June 13***	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	June 29	July 18	Aug. 22	Nov. 19
May 16	June 6	June 26	July 11	July 13	Aug. 1	Sep. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sep. 19	Dec. 17
June 13	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
June 29	July 18	Aug. 7	Aug. 22	***Aug. 22***	Sep. 12	Oct. 17	Jan. 14 '19
July 13	Aug. 1	Aug. 21	Sep. 5	Sep. 7	Sep. 26	Oct. 31	Jan. 28 '19
July 27	Aug. 15	Sep. 4	Sep. 19	Sep. 21	Oct. 10	Nov. 14	Feb. 11 '19
Aug. 10	Aug. 29	Sep. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '19
Aug. 22	Sep. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 11 '19
Sep. 7	Sep. 26	Oct. 16	Oct. 31	***Oct. 31***	Nov. 21	Dec. 26	Mar. 25 '19
Sep. 21	Oct. 10	Oct. 30	Nov. 14	***Nov. 14***	Dec. 5	Jan. 9 '19	Apr. 8 '19
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '19	Apr. 22 '19
Oct. 19	Nov. 7	Nov. 27	Dec. 12	***Dec. 12***	Jan. 2 '19	Feb. 6 '19	May 6 '19
Oct. 31	Nov. 21	Dec. 11	Dec. 26	***Dec. 26***	Jan. 16 '19	Feb. 20 '19	May 20 '19
Nov. 14	Dec. 5	Dec. 25	Jan. 9 '19	Jan. 11 '19	Jan. 30 '19	Mar. 6 '19	June 3 '19
Nov. 30	Dec. 19	Jan. 8 '19	Jan. 23 '19	Jan. 25 '19	Feb. 13 '19	Mar. 20 '19	June 17 '19
Dec. 12	Jan. 2 '19	Jan. 22 '19	Feb. 6 '19	Feb. 8 '19	Feb. 27 '19	Apr. 3 '19	July 1 '19
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PRINTING SCHEDULE FOR IAB

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22	**Friday, April 6, 2018**	**April 25, 2018**
23	**Friday, April 20, 2018**	**May 9, 2018**
24	**Friday, May 4, 2018**	**May 23, 2018**

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 6, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
Procurement of standard modular office systems, 100.1, 100.6(6), 117.5(3) Filed **ARC 3676C** 3/14/18

AGING, DEPARTMENT ON[17]
Department organization, 2.5 Filed **ARC 3713C** 3/28/18
Access to residents—restrictions on visits, 8.6(10)"c" Filed **ARC 3714C** 3/28/18

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
WIC/FMNP/SFMNP—criteria for grandfather of farmstands, 50.8 Filed **ARC 3677C** 3/14/18

COLLEGE STUDENT AID COMMISSION[283]
EDUCATION DEPARTMENT[281]"umbrella"
Membership of commission; barber and cosmetology arts and sciences tuition grant program, amend 1.2(2); rescind ch 17 Notice **ARC 3711C** 3/28/18
Meetings of the commission—special meetings, affirmative votes, 1.2(3) Filed **ARC 3699C** 3/28/18
Commission-approved interstate reciprocity agreement—criteria for participation, 21.15 Filed **ARC 3678C** 3/14/18

DENTAL BOARD[650]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Overpayment, 1.1 Notice **ARC 3703C** 3/28/18
Graduates of foreign dental schools—licensure, 11.4 Notice **ARC 3705C** 3/28/18
Review of applications for license, permit, registration or qualification, 11.8, 20.18 Notice of Termination **ARC 3698C** 3/28/18

EDUCATIONAL EXAMINERS BOARD[282]
EDUCATION DEPARTMENT[281]"umbrella"
Coursework for out-of-state applicants; dance endorsement; license renewal for applicant with specialist's or doctor's degree, 13.5, 13.28, 18.6, 20.6, 20.9, 27.5 Notice **ARC 3710C** 3/28/18

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Air quality, amendments to chs 20, 22, 23, 25, 30, 33, 34 Filed **ARC 3679C** 3/14/18

HUMAN SERVICES DEPARTMENT[441]
State supplementary assistance—cost-of-living adjustments, 51.4(1), 51.7, 52.1 Filed **ARC 3715C** 3/28/18
Appeals to managed care organizations, 73.12(2) Filed Emergency After Notice **ARC 3667C** 3/14/18
Medicaid for employed people with disabilities—premiums, 75.1(39)"b"(3) Notice **ARC 3704C** 3/28/18
Crisis response services, 79.1(2), 79.3(2)"d" Filed **ARC 3716C** 3/28/18
Nurse aides—training and competency evaluation, 81.1, 81.16 Filed **ARC 3718C** 3/28/18
Civil money penalties; quality improvement initiative grants, 81.1, 81.53, ch 166 Filed **ARC 3717C** 3/28/18
Child support, 95.14, 99.65(1), 99.87 Filed **ARC 3719C** 3/28/18
Child support promoting opportunities for parents program, ch 100 Filed **ARC 3720C** 3/28/18
Employee background checks—department as requesting entity, 119.1 Filed **ARC 3680C** 3/14/18
Juvenile detention home reimbursement, amendments to ch 167 Filed **ARC 3681C** 3/14/18

INSPECTIONS AND APPEALS DEPARTMENT[481]
Economic fraud control bureau, ch 72 Notice **ARC 3669C** 3/14/18
Medicaid fraud control unit, ch 73 Notice **ARC 3668C** 3/14/18

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Organized delivery systems—removal of references, amendments to chs 4, 35, 37, 41, 71, 73 to 75, 78 Filed **ARC 3682C** 3/14/18
Long-term care insurance—removal of consumer filing fee, 39.45, 39.46 Filed **ARC 3683C** 3/14/18

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
Organization; investment board; benefits advisory committee; protection occupations; employers; benefits, amendments to chs 1 to 5, 11, 31 Filed **ARC 3684C** 3/14/18

LABOR SERVICES DIVISION[875]
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Occupational safety and health violations—increased penalties, 3.11(1) Notice **ARC 3702C** 3/28/18
Federal occupational safety and health standards—adoption by reference, 10.20, 26.2
Filed **ARC 3721C** 3/28/18
Amusement rides and devices—operator requirements, inspections, payments, 61.3(4)"a,"
61.4(1)"a," 61.8 Filed **ARC 3685C** 3/14/18
Contractor registration, 150.2, 150.4(11)"a" Filed **ARC 3686C** 3/14/18

MEDICINE BOARD[653]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Standards of practice—medical cannabidiol, 13.15 Notice **ARC 3675C** 3/14/18

PHARMACY BOARD[657]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Temporary designation of controlled substances—synthetic opioids, opioid analgesic;
precursor substances, 10.39, 10.42 Notice **ARC 3701C** 3/28/18

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Collective bargaining, amendments to chs 2, 4 to 7, 13 Notice **ARC 3671C** 3/14/18

PUBLIC HEALTH DEPARTMENT[641]

Childhood lead poisoning prevention program, 72.1 to 72.3 Notice **ARC 3709C** 3/28/18
Trauma registry—updates for clarification, 136.1, 136.2 Notice **ARC 3706C** 3/28/18
Regionalized system of perinatal health care, amendments to ch 150 Notice **ARC 3708C** 3/28/18
Medical cannabidiol program, amendments to ch 154 Notice **ARC 3707C** 3/28/18

REAL ESTATE COMMISSION[193E]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Trust account; property condition disclosure, 13.1, 14.1 Filed **ARC 3722C** 3/28/18

REGENTS BOARD[681]

Traffic and parking at universities, amendments to ch 4 Notice **ARC 3670C** 3/14/18

TRANSPORTATION DEPARTMENT[761]

Motor vehicle and travel trailer dealers, manufacturers, distributors and wholesalers,
amendments to ch 425 Filed **ARC 3687C** 3/14/18
Federal motor carrier safety and hazardous materials regulations—adoption by reference,
520.1, 529.1, 529.2, 607.10(1)"c" Notice **ARC 3700C** 3/28/18
Transportation network companies—insurance carriers, 540.4(3)"a" Filed **ARC 3688C** 3/14/18
Sanctions, amendments to ch 615 Notice of Termination **ARC 3697C** 3/28/18
Commercial learner's permit—period of validity, amendments to ch 607 Filed **ARC 3689C** 3/14/18
Coordination of public transit services, amendments to ch 910 Filed **ARC 3690C** 3/14/18
School transportation services provided by regional transit systems, amendments to ch 911
Filed **ARC 3691C** 3/14/18
Federal transit assistance, amendments to ch 922 Filed **ARC 3692C** 3/14/18
Capital match revolving loan fund, amendments to ch 923 Filed **ARC 3693C** 3/14/18

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"

Cogeneration and small power production, 15.1, 15.10 Filed **ARC 3694C** 3/14/18
Inmate calling rates, 22.19(8) Notice **ARC 3674C** 3/14/18
Nonutility services, 34.4 Filed **ARC 3695C** 3/14/18

VETERINARY MEDICINE BOARD[811]

Veterinary technician examination—frequency, fees, 8.2, 8.3 Filed **ARC 3696C** 3/14/18

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Claims for benefits; reemployment services; eligibility assessment; investigation and
recovery unit; administrative penalties; wage verification, amendments to chs 24, 25
Notice **ARC 3672C** 3/14/18
Claims and benefits, 24.1(21), 24.2, 24.13, 24.37(1)"d" Notice **ARC 3712C** 3/28/18
Benefits—claims, payments, overpayments, 24.2(1), 24.9(1), 25.7(6) Notice **ARC 3666C** 3/14/18

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 Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Jack Ewing
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-6048
Fax (515)281-8451

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

DENTAL BOARD[650]

Overpayment, 1.1 IAB 3/28/18 **ARC 3703C**	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	April 24, 2018 2 p.m.
Graduates of foreign dental schools—licensure, 11.4 IAB 3/28/18 **ARC 3705C**	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	April 24, 2018 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Coursework for out-of-state applicants; dance endorsement; license renewal for applicant with specialist's or doctor's degree, 13.5, 13.28, 18.6, 20.6, 20.9, 27.5 IAB 3/28/18 **ARC 3710C**	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 18, 2018 1 p.m.

LABOR SERVICES DIVISION[875]

Occupational safety and health violations—increased penalties, 3.11(1) IAB 3/28/18 **ARC 3702C**	150 Des Moines St. Des Moines, Iowa	April 18, 2018 9 a.m. (If requested)

MEDICINE BOARD[653]

Standards of practice—medical cannabidiol, 13.15 IAB 3/14/18 **ARC 3675C**	Board Office, Suite C 400 S.W. Eighth St. Des Moines, Iowa	April 4, 2018 8:30 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Collective bargaining, amendments to chs 2, 4 to 7, 13 IAB 3/14/18 **ARC 3671C**	Starkweather Conference Room Vocational Rehabilitation Offices 510 East 12th St. Des Moines, Iowa	April 4, 2018 2 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Medical cannabidiol program, amendments to ch 154 IAB 3/28/18 **ARC 3707C**	Room 518 Lucas State Office Bldg. Des Moines, Iowa	April 17, 2018 1 to 1:30 p.m.

TRANSPORTATION DEPARTMENT[761]

Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1, 529.1, 529.2, 607.10(1)"c" IAB 3/28/18 **ARC 3700C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 19, 2018 10 a.m. (If requested)

The following list will be updated as changes occur.

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

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

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

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ARC 3711C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to membership of commission and removal of a tuition grant program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to amend Chapter 1, "Organization and Operation," and to rescind Chapter 17, "Barber and Cosmetology Arts and Sciences Tuition Grant Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2017 Iowa Acts, House File 642.

Purpose and Summary

These proposed amendments reflect changes to the Iowa Code enacted in 2017 Iowa Acts, House File 642. House File 642, section 11, restructured the membership of the Commission, and section 43 repealed the Barber and Cosmetology Arts and Sciences Tuition Grant Program.

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 Commission 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 no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Karen Misjak
Executive Director
College Student Aid Commission
430 East Grand Avenue, Third Floor
Des Moines, Iowa 50309-1920
Fax: 515.725.3401
Email: karen.misjak@iowa.gov

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.2(2) as follows:

1.2(2) *The commission.* The commission consists of ~~14~~ 15 members and functions under the leadership of a chairperson elected by the membership. ~~Eight~~ Nine members are appointed by the governor to serve four-year terms. ~~Three~~ Four of the governor's appointees represent the general public, one represents ~~Iowa lending institutions~~ parents of Iowa postsecondary students, one represents practitioners licensed under Iowa Code chapter 272, one represents Iowa independent colleges and universities, one represents Iowa community colleges, and one represents Iowa postsecondary students~~, and one shall be an individual who is repaying or has repaid a student loan guaranteed by the commission~~. One member is appointed by the board of regents. The president of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives each appoint one ex officio, nonvoting commission member. The director of the department of education serves as a continuous member of the commission and may appoint a designee to represent the department of education.

ITEM 2. Rescind and reserve **283—Chapter 17**.

ARC 3703C

DENTAL BOARD[650]

Notice of Intended Action

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

The Dental Board hereby proposes to amend Chapter 1, "Administration," 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 section 147.80.

Purpose and Summary

The purpose of the proposed amendment is to update the definition of "overpayment" to more closely match the definition of "fee" in rule 650—15.2(147,153).

The current definition of "overpayment" indicates that overpayments of less than $10 shall not be refunded. A recently adopted amendment to 650—Chapter 15 indicates that requests received with

an overpayment shall be returned prior to processing. The definition of "fee" was updated following comments received from the Administrative Rules Review Committee. This proposed amendment would eliminate confusion about the process for handling overpayments.

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 Dental Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

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 24, 2018. Comments should be directed to:

Phil McCollum
Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Email: phil.mccollum@iowa.gov

Public Hearing

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

April 24, 2018	Board Office, Suite D
2 p.m.	400 S.W. Eighth Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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:

DENTAL BOARD[650](cont'd)

Amend rule **650—1.1(153)**, definition of "Overpayment," as follows:

"Overpayment" means payment in excess of the required fee. Overpayment ~~of less than $10 received by the board shall not be refunded~~ shall result in the return of the original request and payment, prior to processing, with a clarification of the total amount due.

ARC 3705C

DENTAL BOARD[650]

Notice of Intended Action

Proposing rule making related to licensure of foreign-trained dentists and providing an opportunity for public comment

The Dental Board hereby proposes to amend Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 153.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 147.33 and 153.21.

Purpose and Summary

The purpose of the proposed rule making is to implement a clearer pathway for foreign-trained dentists to obtain licensure in Iowa. Historically, the Board has approved a number of rule waivers allowing foreign-trained dentists to obtain licensure in Iowa if they completed a minimum of one year in a general practice residency at an ADA-accredited dental school in lieu of the education currently required by rule. The proposed rule making would amend rule 650—11.4(153) to reflect the circumstances under which the Board has historically approved rule waivers.

The proposed rule making would also update the references to successful completion of the Test of English as a Foreign Language (TOEFL) and remove the reference to the Test of Spoken English (TSE) since this examination is no longer offered.

Fiscal Impact

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

Jobs Impact

More practitioners may qualify for licensure under the proposed amendments, as opposed to the more limited program and requirements currently established.

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 Dental Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

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 24, 2018. Comments should be directed to:

Phil McCollum
Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Email: phil.mccollum@iowa.gov

Public Hearing

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

April 24, 2018	Board Office, Suite D
2 p.m.	400 S.W. Eighth Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 650—11.4(153) as follows:

650—11.4(153) Graduates of foreign dental schools. In addition to meeting the other requirements for licensure specified in rule 650—11.2(147,153) or 650—11.3(153), an applicant for dental licensure who did not graduate with a DDS or DMD from an accredited dental college approved by the board must provide satisfactory evidence of meeting the following requirements.

11.4(1) The applicant must complete a full-time~~, undergraduate supplemental~~ dental education program ~~of at least two academic years~~ at an accredited dental college. ~~The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the dental college.~~ The program must consist of either:

a. An undergraduate supplemental dental education program of at least two academic years. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the accredited dental college; or

b. A postgraduate general practice residency program of at least one academic year.

11.4(2) The applicant must receive a dental diploma, degree or certificate from the accredited dental college upon successful completion of the program.

11.4(3) The applicant must present to the board the following documents:

a. ~~An official transcript issued by the accredited dental college that verifies completion of all coursework requirements of the undergraduate supplemental dental education program;~~ Satisfactory evidence of completion of board-approved dental education at an accredited dental college;

~~*b.* A dental diploma, degree or certificate issued by the accredited dental college or a certified copy thereof;~~

~~*c.* A letter addressed to the board from the dean of the accredited dental college verifying that the applicant has successfully completed the requirements set forth in 11.4(1);~~

~~*d.*~~ *b.* A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation shall also be submitted; and

~~*e.*~~ *c.* Verification from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in the country in which the applicant received foreign dental school training and that no adverse action was taken against the license.

11.4(4) The applicant must demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by submitting to the board ~~proof~~ evidence of ~~a passing score on one of the following examinations:~~ achieving a score sufficient to be rated in the highest level of ability on each section of the Test of English as a Foreign Language (TOEFL) as administered by the Educational Testing Service (ETS).

~~*a.* Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL or a minimum overall score of 213 on the computer-administered TOEFL.~~

~~*b.* Test of Spoken English (TSE) administered by the Educational Testing Service. A passing score on TSE is a minimum of 50.~~

This rule is intended to implement Iowa Code chapter 153.

ARC 3698C

DENTAL BOARD[650]

Notice of Termination

Terminating rule making related to review of applications

The Dental Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3477C**, proposing to amend Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," and Chapter 20, "Dental Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

The above-mentioned rule making is terminated under the authority provided in Iowa Code section 147.53.

Purpose and Summary

The Notice of Intended Action was intended to implement a clearer process of additional review of applications for license and registration prior to issuance as needed.

Reason for Termination

The incorrect draft was used as the basis for the Notice of Intended Action. Since the draft that was used was not the basis for the Board vote, the rule making is being terminated.

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 3710C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to license issuance and renewal and providing an opportunity for public comment

The Board of Educational Examiners hereby proposes to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 20, "Renewals," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

The proposed amendments eliminate coursework deficiencies for some out-of-state applicants, provide language for a new dance endorsement to align with fine arts standards, and adjust the renewal requirements for an applicant who holds a specialist's or doctor's degree.

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 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on April 20, 2018. Comments should be directed to:

Kim Cunningham
Board of Educational Examiners
Grimes State Office Building
400 East 14th Street and Grand Avenue
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

April 18, 2018	Room 3 Southwest
1 p.m.	Grimes 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 a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs by calling the office of the Executive Director at 515.281.5849.

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 282—13.5(272) as follows:

282—13.5(272) Teacher licenses. A license may be issued to ~~applicants~~ an applicant who ~~fulfill~~ fulfills the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

13.5(1) No change.

13.5(2) *Applicants from non-Iowa institutions.*

a. No change.

b. In addition to the requirements set forth in subrule 13.5(1), ~~applicants~~ an applicant from a non-Iowa ~~institutions~~ institution:

(1) and (2) No change.

(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license. ~~Applicants~~ An applicant seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for licensure. An applicant who has met the coursework requirements in this subrule will not be subject to coursework deficiency requirements if the applicant provides verification of ten years

of successful teaching experience or if the applicant provides verification of five years of successful experience and a master's degree.

(4) to (6) No change.

c. to *e.* No change.

13.5(3) No change.

ITEM 2. Amend rule 282—13.28(272) as follows:

282—13.28(272) Minimum content requirements for teaching endorsements.

13.28(1) to **13.28(13)** No change.

13.28(14) *Physical education.*

a. K-8. Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adaptive physical education, personal wellness, human growth and development of children related to physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

b. 5-12. Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adaptive physical education, curriculum and administration of physical education, personal wellness, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

c. K-12 dance endorsement. For holders of the K-12 dance endorsement, completion of 12 credits of physical education to include human anatomy, personal wellness, curriculum and administration of physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

13.28(15) to **13.28(35)** No change.

13.28(36) *Dance.* K-12.

a. Completion of 24 semester hours in dance to include coursework in dance performance and technique (to include at least four styles of dance), dance history, dance choreography, dance improvisation, dance production, human growth and development related to motor learning, and kinesiology.

b. For holders of the K-8 or 5-12 physical education endorsement, completion of 12 semester hours of dance to include coursework in dance performance and technique (to include at least four styles of dance), choreography, improvisation, dance history, and dance production.

c. The dance methods course shall minimally include pedagogy, curriculum, assessment, differentiation, and adaptive techniques for special needs students in dance.

ITEM 3. Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in the state in which the preparation was completed, exclusive of a temporary, emergency or substitute license or certificate.

18.6(1) *Administrator exchange license.* A one-year nonrenewable administrator exchange license may be issued to an individual who has not met any of the following requirements:

~~*a. Professional core requirements.* The applicant has not completed all of the required courses in the professional core in 281—subrules 79.15(2) and 79.15(3) and 281—paragraphs 79.15(5)*"a"* to *"k."*~~

~~*b.*~~ *a.* Endorsement requirements. The applicant has not completed a minimum of 75 percent of the coursework for the PK-12 principal and PK-12 supervisor of special education endorsement, and any additional administrator endorsements desired.

~~*c.*~~ *b.* Regular administrator certificate or license in the state in which the preparation was completed. The applicant is eligible for and has applied for a regular administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license.

~~*d.*~~ *c.* Approved evaluator training requirement. The applicant has not completed the approved evaluator training requirement.

18.6(2) No change.

ITEM 4. Amend rule 282—20.6(272) as follows:

282—20.6(272) Specific renewal requirements for a master educator license.

20.6(1) No change.

20.6(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

f. One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

ITEM 5. Amend rule 282—20.9(272) as follows:

282—20.9(272) Specific renewal requirements for an administrator license.

20.9(1) No change.

20.9(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below~~.~~:

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned specialist's or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an administrator endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or in the case of a superintendent, as verified by the school board president.

20.9(3) No change.

ITEM 6. Amend rule 282—27.5(272) as follows:

282—27.5(272) Specific renewal requirements for the standard professional service license.

27.5(1) No change.

27.5(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved pursuant to guidelines established by the board of educational examiners.

ARC 3704C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to Medicaid for employed people with disabilities and providing an opportunity for public comment

The Department of Human Services hereby proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

This amendment adjusts the federal poverty level (FPL) increments used to assess premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the FPL.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. With the exception of premium amounts at the very high end of the income scale, MEPD premiums are not changing. Currently, there are no MEPD members with gross individual income higher than 550 percent of the FPL. For these reasons, there is no fiscal impact.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Analysis
Department of Human Services
Hoover Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Fax: 515.281.4980
Email: policyanalysis@dhs.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subparagraph **75.1(39)"b"(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	$34
165% of Federal Poverty Level	$47
180% of Federal Poverty Level	$56
200% of Federal Poverty Level	$66
225% of Federal Poverty Level	$77
250% of Federal Poverty Level	$89
300% of Federal Poverty Level	$112
350% of Federal Poverty Level	$137
400% of Federal Poverty Level	$161

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
450% of Federal Poverty Level	$186
550% of Federal Poverty Level	$232
650% of Federal Poverty Level	$280
750% of Federal Poverty Level	$329
850% of Federal Poverty Level	$389
1000% of Federal Poverty Level	$467
1150% of Federal Poverty Level	$547
1300% of Federal Poverty Level	$631
1480% of Federal Poverty Level	$729
~~1530% of Federal Poverty Level~~	~~$746~~
1550% of Federal Poverty Level	$768
~~1590% of Federal Poverty Level~~	~~$778~~
~~1660% of Federal Poverty Level~~	~~$812~~
~~1740% of Federal Poverty Level~~	~~$852~~

ARC 3702C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

The Labor Commissioner hereby proposes to amend Chapter 3, "Posting, Inspections, Citations and Proposed Penalties," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 88.14.

State or Federal Law Implemented

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

Purpose and Summary

This proposed rule making would increase Iowa's penalties for occupational safety and health violations to match the federal penalties.

Fiscal Impact

This proposed rule making would result in a small increase in deposits to the general fund.

Jobs Impact

After analysis and review of this rule making, the Commissioner finds that jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

LABOR SERVICES DIVISION[875](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 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 18, 2018. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on April 17, 2018, a public hearing at which persons may present their views orally or in writing will be held as follows:

April 18, 2018	150 Des Moines Street
9 a.m.	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 a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commissioner and advise of specific needs by calling 515.725.5615.

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 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~February 11, 2018~~ June 30, 2018, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~$8,908~~ $9,239 and shall not exceed ~~$124,709~~ $129,336.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~$124,709~~ $129,336.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~$12,471~~ $12,934.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~$12,471~~ $12,934.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~$12,471~~ $12,934 per day.

ARC 3701C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to controlled substances and precursor substances and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201, 124.301 to 124.308 and 124B.2.

Purpose and Summary

The proposed amendments temporarily schedule 13 synthetic opioids and one opioid analgesic in Schedule I of the Iowa Uniform Controlled Substances Act, subjecting those substances and anyone in possession of those substances to the requirements and penalties relating to Schedule I controlled substances. The proposed amendments also add one precursor substance to the list of precursor substances subject to the controls, requirements, and penalties of Iowa Code chapter 124B.

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.

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 17, 2018. Comments should be directed to:

PHARMACY BOARD[657](cont'd)

Terry Witkowski
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309-4688
Email: terry.witkowski@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. Adopt the following **new** paragraphs **10.39(2)"aa"** to **"am"**:

aa. N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide. Other names: ortho-fluorofentanyl or 2-fluorofentanyl.

ab. N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide. Other name: tetrahydrofuranyl fentanyl.

ac. 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Other name: methoxyacetyl fentanyl.

ad. N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide. Other names: acryl fentanyl or acryloylfentanyl.

ae. Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

af. N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters, and ethers. Other name: cyclopropyl fentanyl.

ag. N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: valeryl fentanyl.

ah. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: para-fluorobutyryl fentanyl.

ai. N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: para-methoxybutyryl fentanyl.

aj. N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: para-chloroisobutyryl fentanyl.

ak. N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: isobutyryl fentanyl.

al. N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: cyclopentyl fentanyl.

am. N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers. Other name: ocfentanil.

PHARMACY BOARD[657](cont'd)

ITEM 2. Adopt the following **new** subrule 10.39(3):

10.39(3) Amend Iowa Code section 124.204(2) by adding the following new paragraph:

be. MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine).

ITEM 3. Adopt the following **new** rule 657—10.42(124B):

657—10.42(124B) Additional precursor substances. Pursuant to Iowa Code section 124B.2(2), the list of precursor substances identified in Iowa Code section 124B.2(1) is amended by adding the following new paragraph:

ab. Alpha-phenylacetoacetonitrile and its salts, optical isomers, and salts of optical isomers. Other name: APAAN.

ARC 3709C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to childhood lead poisoning prevention program and providing an opportunity for public comment

The Department of Public Health hereby proposes to amend Chapter 72, "Childhood Lead Poisoning Prevention Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135.102.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135.101 to 135.105.

Purpose and Summary

Chapter 72 outlines the rules and processes to establish local childhood lead poisoning prevention programs and establishes a funding formula. The proposed amendments align the rules more closely to the original enabling legislation by removing additional requirements currently included in the rules.

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 variance and waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Stuart Schmitz
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: stuart.schmitz@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 action is proposed:

Amend rules 641—72.1(135) to 641—72.3(135) as follows:

641—72.1(135) Definitions.

"Approved program" means a program that meets the requirements of subrule 72.2(3) and has been approved by the department.

~~*"Capillary"* means a blood sample taken from the finger or heel for lead analysis.~~

~~*"Certified elevated blood lead (EBL) inspection agency"* means an agency that has met the requirements of 641—70.5(135) and has been certified by the department.~~

~~*"Certified elevated blood lead (EBL) inspector/risk assessor"* means a person who has met the requirements of 641—70.5(135) for certification or interim certification and who has been certified by the department.~~

~~*"Chelation"* means the administration of medication that binds lead so that it can be removed from the body.~~

"Department" means the Iowa department of public health.

~~*"Elevated blood lead (EBL) child"* means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.~~

~~*"Elevated blood lead (EBL) inspection"* means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child.~~

~~*"Elevated blood lead (EBL) inspection agency"* means an agency that employs or contracts with individuals who perform elevated blood lead (EBL) inspections. Elevated blood lead (EBL) inspection agencies may also employ or contract with individuals who perform other lead-based paint activities.~~

~~*"Laboratory"* means a laboratory satisfactorily participating in the blood lead analysis proficiency testing program of the Centers for Disease Control and Prevention/University of Wisconsin.~~

~~*"Lead-based paint hazard"* means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard as defined in 641—Chapter 70.~~

"Local board" means a county, district, or city board of health.

"Local childhood lead poisoning prevention program" means a program in which the services listed in subrule 72.2(3) are provided by agencies located in a community.

~~*"Venous"* means a blood sample taken from a vein in the arm for lead analysis.~~

641—72.2(135) Approved programs.

72.2(1) ~~An individual~~ A local board of health representing a geographic area with a population of at least 15,000 is eligible to apply for status as an approved program pursuant to Iowa Code section 135.104, which sets forth the eligibility requirements contained in the application. ~~A group of local boards of health representing a geographic area with a total population of at least 15,000 may apply for status as an approved program by designating an individual local board of health to apply on behalf of the group.~~

72.2(2) A local board wishing to apply for status as an approved program shall make application to the Iowa department of public health ~~by December 1 of each year, beginning on December 1, 2003, for the program year of July 1, 2004, through June 30, 2005. An individual local board of health may submit or be included in only one application for status as an approved program. An application for status as an approved program must follow~~ in the format which will be made available from the Lead Poisoning Prevention Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All materials submitted as part of the application for status as an approved program are public records.

~~**72.2(3)** A local board applying for status as an approved program must demonstrate that it is prepared to provide the following activities and authority immediately upon the receipt of funding. The application submitted by a local board of health shall specify the name of the agency and of the individual staff member who will be responsible for carrying out each of the following activities:~~

~~*a.* A public education program about lead poisoning and the dangers of lead poisoning to children.~~

~~*b.* An effective outreach effort to ensure the availability of services in the geographic area to be served.~~

~~*c.* A blood lead testing program for children, with an emphasis on children less than six years of age. Blood lead testing should be done in conformance with the department's statewide blood lead testing plan, available on request from the department.~~

~~*d.* Provision of laboratory services, in conformance with the above-cited reference.~~

~~*e.* A program to ensure that children identified with blood lead levels greater than or equal to 10 micrograms per deciliter receive services appropriate for the blood lead level including, but not limited to, confirmatory venous blood lead testing, follow-up capillary or venous blood lead testing, nutrition counseling, a home nursing visit, a developmental evaluation, a medical evaluation, and chelation.~~

~~*f.* Elevated blood lead (EBL) inspections in dwelling units associated with an elevated blood lead (EBL) child. Elevated blood lead (EBL) inspections shall be conducted by certified elevated blood lead (EBL) inspector/risk assessors employed by or under contract with a certified elevated blood lead (EBL) inspection agency.~~

~~*g.* Follow-up inspections to ensure that lead-based paint hazards identified in dwelling units associated with an elevated blood lead (EBL) child are corrected.~~

~~*h.* Adoption and enforcement of a local code which provides adequate authority to require control of lead-based paint hazards found in dwelling units associated with an elevated blood lead (EBL) child.~~

~~*i.* Development of a community coalition to address childhood lead poisoning prevention.~~

~~*j.* Management of blood lead and case management data using the Strategic Tracking of Elevated Lead Levels and Remediation (STELLAR) program.~~

~~*k.* A plan of intent to continue the program on a maintenance basis after the grant is discontinued.~~

72.2(3) The program administered by a local board of health or city receiving funding for an approved childhood lead poisoning prevention grant program shall include:

a. A public education program about lead poisoning and dangers of lead poisoning to children.

b. An effective outreach effort to ensure availability of services in the predicted geographic area.

c. A screening program for children, with an emphasis on children less than six years of age.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. Access to laboratory services for lead analysis.

e. A program of referral of identified children for assessment and treatment.

f. An environmental assessment of suspect dwelling units.

g. Surveillance to ensure correction of the identified hazardous settings.

h. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

~~**72.2(4)** By January 1 of each year, the department shall notify each local board of health that has applied for status as an approved program whether the local board of health has been granted status as an approved program, beginning January 1, 2004, for the program year of July 1, 2004, through June 30, 2005.~~

~~**72.2(5)** A county that receives childhood lead poisoning prevention funding from the department for the program year of July 1, 2002, through June 30, 2003, shall have status as an approved program for the program year of July 1, 2003, through June 30, 2004. Unless the local board of health requests otherwise by March 1, 2003, the contractors that provide childhood lead poisoning prevention services in the county for the program year of July 1, 2002, through June 30, 2003, shall continue to serve as contractors for the program year of July 1, 2003, through June 30, 2004.~~

641—72.3(135) ~~Level~~ Reallocation of funding.

~~**72.3(1)** The department shall develop a formula to allocate funding to approved programs. In the development of the formula, the department shall consider factors that affect the burden of childhood lead poisoning in a geographic area including, but not limited to, the number of children under the age of six years, the percentage of housing built before 1950, the percentage of children in poverty, and the demonstrated prevalence of childhood lead poisoning in the geographic area to be served.~~

~~**72.3(2)** The department shall allocate state funds appropriated to the department for this program according to this formula. Federal funds available to the department for local childhood lead poisoning prevention programs shall be allocated to approved programs according to this formula unless a different method is mandated by the federal agency providing the funding.~~

~~**72.3(3)** The approved program shall provide one dollar for every three dollars of state funding awarded for each of the first two years of funding and then one dollar for each dollar of state funding awarded for the third and subsequent years of funding. Local contributions may be in the form of in-kind matching.~~

~~**72.3(4)** Matching requirements for federal funding allocated to approved programs shall be as mandated by the federal agency providing the funding.~~

~~**72.3(5)** On January 1, April 1, and June 1~~ of each year, the department shall ask each approved program to estimate the amount of funds that the approved program has been awarded but will not use. The department may ~~allocate~~ reallocate these funds to approved programs with demonstrated special needs for childhood lead poisoning prevention services.

ARC 3706C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

The Department of Public Health hereby proposes to amend Chapter 136, "Trauma Registry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147A.27.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147A.26.

Purpose and Summary

The purpose of the amendments is to provide clarification. The proposed amendments make the following changes:

- Remove the definition of "ICD10."
- Add a definition for "health care providers."
- Update the definition of "trauma patient."
- Add a definition for "trauma survey team."
- Update references to the Iowa Trauma Patient Data Dictionary (January 2017).
- Update the website address for the Iowa Trauma Patient Data Dictionary (January 2017).
- Remove the word "elements" from the phrase "data elements."
- Clarify who is authorized to review reported data for quality assurance.

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 variance and waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Diane Williams
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: diane.williams@idph.iowa.gov

Public Hearing

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 641—136.1(147A) as follows:

641—136.1(147A) Definitions. For the purposes of these rules, the following definitions shall apply:

"Cases" means trauma patients that meet the trauma registry inclusion criteria.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Health care providers" for the purpose of this chapter includes licensed physicians, nurse practitioners, physician assistants, and registered nurses.

~~*"ICD10"* means International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM).~~

"Inclusion criteria" means criteria determined by the department and adopted by reference to determine which trauma patients are to be included in the trauma registry.

"Reportable patient data" means data ~~elements~~ and definitions determined by the department and adopted by reference to be reported to the trauma registry on trauma patients meeting the inclusion criteria.

"Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having Level I, Level II, Level III or Level IV care capabilities and has been issued a certificate of verification pursuant to Iowa Code section 147A.23(2)*"c."*

"Trauma patient" means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen~~.~~ as defined in the "Iowa Trauma Patient Data Dictionary" as established in 136.2(1)*"a."*

"Trauma registry" means the data repository operated by the department to collect and analyze reportable patient data on the incidence, severity, and causes of trauma, including the central registry for brain and spinal cord injuries (~~IAC~~ rule 641—21.1(135)) and farm-related injuries.

"Trauma survey team" means a group of health care providers contracted by the department to assist in verifying trauma care facilities' compliance with trauma criteria adopted by reference in 641—subrule 134.2(3).

ITEM 2. Amend rule 641—136.2(147A) as follows:

641—136.2(147A) Trauma registry.

136.2(1) Adoption by reference.

a. "Iowa Trauma Patient Data Dictionary" (January 2017) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the trauma registry. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

b. "Iowa Trauma Patient Data Dictionary" (January 2017) is available through the Iowa Department of Public Health, Bureau of Emergency and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the BETS ~~Web site (http://idph.iowa.gov/BETS)~~ website idph.iowa.gov/Portals/1/userfiles/43/Trauma%20Registry%20Data%20Dictionary%20Jan_%202017.pdf.

136.2(2) A trauma care facility shall report data as follows:

a. Trauma care facilities shall submit reportable patient data identified in 136.2(1) electronically to the department. Data shall be submitted in a format approved by the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Trauma care facilities that enter required trauma data ~~elements~~ identified in ~~136.2(1)~~ 136.2(1)*"a"* directly into the state registry shall, at a minimum, enter 80 percent of cases within 60 days of a patient's discharge. Within 120 days of a patient's discharge, 100 percent of cases shall be entered into the registry.

c. Trauma care facilities that submit required trauma data ~~elements~~ identified in ~~136.2(1)~~ 136.2(1)*"a"* via upload shall, at a minimum, submit 80 percent of cases discharged within the previous 60 days of the first business day of every even-numbered calendar month. Within 120 days of a patient's discharge or next scheduled data upload, 100 percent of cases shall be entered into the registry.

136.2(3) to **136.2(5)** No change.

136.2(6) Quality assurance of reported data.

a. For the purpose of ensuring the completeness and quality of reportable patient data, the department or ~~authorized representative~~ its designated trauma survey team may examine ~~all or part of the patient's~~ medical records ~~as necessary to verify or clarify all reportable patient~~ to validate the accuracy of data submitted by a trauma care facility.

b. Review of ~~a patient's~~ medical ~~record~~ records by the department or its designated trauma survey team shall be scheduled in advance with the trauma care facility and completed in a timely manner.

c. The director, pursuant to 641—Chapter 178, may grant a variance from the requirements of rules adopted under this chapter for a trauma care facility that meets the requirements of this chapter.

ARC 3708C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to perinatal health care and providing an opportunity for public comment

The Department of Public Health hereby proposes to amend Chapter 150, "Iowa Regionalized System of Perinatal Health Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135.11(27).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11(27).

Purpose and Summary

The previously adopted Iowa criteria define perinatal levels of care from Level I to Level III, based on 1970s studies that demonstrated timely access to risk-appropriate neonatal and obstetric care could reduce perinatal mortality. The rules in Chapter 150 outline the criteria standards for hospitals to meet the identified level of care. The proposed amendments update the levels of care and associated criteria, based on recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists. The proposed amendments introduce four-level uniform designations of maternal care that are distinct from the four levels of neonatal care, and develop standardized definitions and nomenclature for hospitals that provide perinatal care.

The proposed amendments clarify the terms for members of and the structure of the Perinatal Guidelines Advisory Committee; clarify the role of the statewide perinatal care program to include level status verification, describe a process for level status verification to protect the public and ensure that, when a hospital represents itself at a particular level of perinatal care, the hospital is capable of providing that care. In addition, a requirement is added for Committee members, on-site review teams,

and statewide perinatal program members to sign confidentiality agreements to protect information obtained in hospital applications and reviews for level designation verification.

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 variance and waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Stephanie Trusty
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: stephanie.trusty@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 rules 641—150.1(135,77GA,ch1221) to 641—150.3(135,77GA,ch1221) as follows:

641—150.1(135~~,77GA,ch1221~~) Purpose and scope. Hospitals within the state shall determine whether to participate in Iowa's regionalized system of perinatal health care and shall select the hospital's level of participation in the regionalized system. A hospital having determined to participate in the regionalized system shall comply with the rules appropriate to the ~~level~~ levels of participation for maternal care and

neonatal care selected by the hospital. Maternal levels of designation and neonatal levels of designation are evaluated separately, and a hospital may have a level of designation for maternal care that is different from the level of designation for neonatal care; however, a pregnant woman should be cared for at the hospital that best meets both her and her newborn infant's needs.

Iowa's regionalized system of perinatal health care helps practitioners in rural Iowa to rapidly access specialty services for their patients even though such services may not exist in the local community. This is predicated on several factors, including the willingness of certain hospitals in moderate-to-large Iowa cities to provide specialty services and the presence of a functional system of patient transportation. These rules address how participating Iowa hospitals relate to the regionalized system and suggest a level of functioning which should identify the role each participating hospital plays in the system.

The following rules present a description of the levels of care among Iowa perinatal hospitals. The levels are as follows: ~~Level I hospital, Level II hospital, Level II regional center, Level II regional neonatology center, and Level III center.~~ Maternal levels of care, which include Level I maternal care hospital, Level II maternal care hospital, Level III maternal care hospital and Level IV maternal care hospital, and neonatal levels of care, which include Level I neonatal care hospital, Level II neonatal care hospital, Level III neonatal care hospital and Level IV neonatal care hospital. ~~The department is very much aware of~~ Due to the need for organization of limited resources in a rural state~~. Accordingly~~, the rules are designed to encourage and support the presence of ~~a Level II regional center in areas not populous enough to support a Level III center.~~ Level II and Level III maternal care and neonatal care hospitals in areas not populous enough to support a Level IV maternal care and neonatal care hospital.

~~These~~ The rules are not meant to hold Iowa hospitals and Iowa perinatal professionals to an impractical ideal. ~~Although the~~ The rules ~~are clearly not intended to serve as standards, they do~~ specify particulars ~~when feasible~~ for a tiered provision of care on the basis of functional capabilities, based on national recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists. ~~For example, specification of a designated level of care for a hospital should be clearly evident from the descriptions. Levels of care are designated by the functional capacity of the hospital. Thus, it may be possible to have a number of Level II hospitals or Level III centers in one city.~~

The primary purpose of the level of care designation is to ensure Iowa perinatal patients receive appropriate maternal and neonatal care as close to their homes as possible. ~~In an ideal situation, no community hospital would be more than 50 miles from a perinatal center. Unfortunately, Iowa's low population density precludes this. Accordingly, Iowa developed a network of regional centers.~~

The ~~further intent of these~~ rules ~~is to~~ provide a framework to ensure that, when a participating hospital ~~markets~~ represents itself at a particular level of perinatal care, ~~it~~ the hospital is capable of providing that care. The public is entitled to know the level of functioning of a hospital. The rules provide the framework ~~to be used in~~ for defining and evaluating the level of perinatal services ~~being~~ offered by a hospital.

641—150.2(135~~,77GA,ch1221~~) Definitions. For the purpose of these rules, the following definitions shall apply:

"Categorization" means a preliminary determination by the department that a hospital is capable of providing ~~perinatal care at Level I, Level II, Level II regional, Level II regional neonatology center, or Level III care capabilities~~ maternal care and neonatal care at Level I, Level II, Level III, or Level IV.

"Certificate of verification" means a document awarded by the department that identifies a hospital's level of ~~perinatal care~~ maternal care and neonatal care at Level I, Level II, Level III, or Level IV and the term of verification at that level.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Hospital" means a facility licensed under Iowa Code chapter 135B ~~or a comparable facility located and licensed in another state~~.

"Late preterm" means that a newborn infant is born between 34 0/7 and 36 6/7 weeks' gestation.

"Levels-of-care assessment tool" or *"tool"* means a tool to assess the maternal and neonatal risk-appropriate care, using the minimum information necessary to identify a hospital's maternal level of care based on criteria by the American Congress of Obstetricians and Gynecologists/Society for Maternal-Fetal Medicine and a hospital's neonatal level of care based on criteria by the American Academy of Pediatrics. The tool will be chosen by the department in consultation with the perinatal guidelines advisory committee.

"Neonate" means a newborn infant, up to 28 days of life.

"On-site verification survey" means an on-site survey conducted by the department's statewide perinatal care program based at the University of Iowa hospitals and clinics or by a survey team of members (medical experts) contracted to assess a hospital's ability to meet the level of designation selected by the hospital.

"Perinatal" means the five months before and one month after birth.

~~*"Perinatal advisory committee"* means the committee that provides review and counsel to the statewide perinatal care program based at the University of Iowa hospitals and clinics.~~

"Perinatal center" means a medical facility capable of providing complex obstetric, fetal and neonatal care.

"Perinatal guidelines advisory committee" means the committee that provides consultation to the department regarding these rules for the regionalized system of perinatal health care, reviews and updates Guidelines for Perinatal Services and provides review and counsel to the statewide perinatal care program.

"Prenatal" means during pregnancy.

"Readily available" means on site or at a closely related institution by prearranged consultative agreement.

"Regionalized system of perinatal health care" means the department's program for ~~the provision of appropriate perinatal care as close to patients' homes as possible~~ designating regional perinatal health care services at a verified level of care, based on a hospital's functional capabilities. Levels of care designations are stratified in an increasing order of intensity and complexity for both maternal health care and neonatal health care.

"Regionalized system of perinatal health care coordinator" means the department's program manager for the regionalized system of perinatal health care.

"Respiratory distress" means tachypnea (respiratory rate of 60 or more per minute), grunting, tugging, retracting, nasal flaring, or cyanosis. Any or all of these may constitute respiratory distress in a neonate.

"Statewide perinatal ~~health~~ care program" means ~~the educational team based at the University of Iowa hospitals and clinics and retained by the department of public health~~ a program consisting of the regionalized system of perinatal health care coordinator, the statewide perinatal care team contracted by the department, and the regionalized system of perinatal health care as defined in these rules.

"Statewide perinatal care team" means the educational team based at the University of Iowa hospitals and clinics and contracted by the department to support the regionalized system of perinatal health care and to provide services to decrease perinatal morbidity and mortality.

"Verification" means a process by which the department certifies a hospital's capacity to provide perinatal care in accordance with criteria established ~~for Level I hospitals, Level II hospitals, Level II regional centers, Level II regional neonatology centers, and Level III centers~~ under these rules for hospitals that are participating in the regionalized system of perinatal health care.

641—150.3(135~~,77GA,ch1221~~) Perinatal guidelines advisory committee.

150.3(1) *Purpose.* The director shall appoint an advisory committee to consult with the department in its development and maintenance of the regionalized system of perinatal health care~~. This advisory committee should not be confused with the perinatal advisory committee that provides~~ and to provide review and counsel to the statewide perinatal care program.

150.3(2) *Appointment.* Appointments to the committee shall be made by the director.

a. Each appointment shall be for a term of three years, commencing on July 1.

b. No member shall serve more than three consecutive terms, unless this provision is waived by the director.

c. In order to ensure that one third of the committee rotates each year, staggered terms shall be initiated in June. For terms expiring during the calendar year, appointments and reappointments shall be staggered, resulting in a committee with approximately one third of the terms of membership expiring each year.

~~*a.*~~ *d.* Members of the perinatal guidelines advisory committee shall include:

(1) ~~a~~ A representative from each of the following organizations that chooses to designate a nominee to the director:

1. Iowa ~~Hospitals and Health Systems~~ Hospital Association;
2. Iowa Medical Society;
3. Iowa Osteopathic Medical Association;
4. Iowa Chapter, American Academy of Pediatrics;
5. Iowa Section, American ~~College~~ Congress of Obstetricians and Gynecologists;
6. Iowa Academy of Family Physicians;
7. Iowa Nurses Association;
8. Iowa Association of Neonatal Nurses;
9. Iowa Association of Women's Health, Obstetrical and Neonatal Nurses~~; and Iowa Chapter, Great Plains Organization for Perinatal Health Care~~.

(2) The director or designee of the statewide perinatal care team.

(3) One designated representative each from a Level I, Level II, Level III, and Level IV hospital (either maternal or neonatal). Hospital representatives in this category will be appointed based on recommendations made by the Iowa Hospital Association to the director of the department.

~~*b.*~~ (4) ~~Nonvoting~~ Representatives from the department of inspections and appeals and the bureau of family health at the department, who shall serve as nonvoting ex officio members of the committee ~~shall include representatives from the department of inspections and appeals, the statewide perinatal health care program at the University of Iowa hospitals and clinics and the division of family and community health medical director at the department~~.

~~*c.*~~ *e.* Vacancies shall be filled in the same manner in which the original appointments were made.

~~*d.*~~ *f.* Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the committee member and appointment of another. ~~The chairperson of the committee shall notify the director of the department.~~

150.3(3) *Officers.* Officers of the committee ~~shall be a~~ are the chairperson and ~~a~~ vice-chairperson ~~and~~. The vice-chairperson succeeds the chairperson at the end of the chairperson's term. A new vice-chairperson shall be elected, by majority vote of the committee, at the first meeting of ~~each fiscal year unless designated at the time of appointment~~ the sitting chairperson's third or final year in office. ~~Vacancies in the office of chairperson shall be filled by elevation of the vice-chairperson. Vacancies in the office of vice-chairperson shall be filled by election at the next meeting after the vacancy occurs.~~ The chairperson shall preside at all meetings of the committee, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice-chairperson shall perform the duties of the chairperson. When so acting, the vice-chairperson shall have all the powers of and be subject to all restrictions upon the chairperson. The vice-chairperson shall also perform such other duties as may be assigned by the chairperson.

150.3(4) *Meetings.*

a. The committee shall establish a meeting schedule on an annual basis to conduct its business. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date. A four-week notice is encouraged to accommodate the schedules of members.

~~*b.* Robert's Rules of Order shall govern all meetings.~~

~~c.~~ *b.* Action on any issue before the committee can be taken only by a majority vote of the entire membership. The committee shall maintain information sufficient to indicate the vote of each member present.

150.3(5) *Subcommittees.* The committee may designate one or more subcommittees to perform such duties as may be deemed necessary.

150.3(6) *Expenses of committee members.* ~~The~~ When incurred on behalf of committee business, the following may be considered necessary expenses for reimbursement of committee members ~~when incurred on behalf of committee business~~ and are subject to established state reimbursement rates:

a. Reimbursement for travel in a private car.

b. Actual lodging and meal expenses including sales tax on lodging and meals.

c. Actual expense of public transportation.

150.3(7) *Confidentiality.*

a. All committee members and subcommittee members shall sign a confidentiality agreement and shall agree not to divulge or discuss confidential information.

b. The signed confidentiality agreements shall be kept on file at the department.

ITEM 2. Rescind rule 641—150.4(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.4(135) Duties of statewide perinatal care team. The team shall:

1. Promote evidence-based and evidence-informed care of pregnant women and newborns.
2. Provide education and consultation to regional and primary providers of perinatal care.
3. Provide chart review to assess quality of care provided and additional education required.
4. Promote change in practice when needed through sharing best practice ideas, policies and procedures.
5. Promote maternal-fetal transfer if delivery of an at-risk infant or mother is anticipated and a higher level of care is anticipated.
6. Provide on-site verification to determine a hospital's ability to meet its level-of-care designation.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 3. Rescind rule 641—150.5(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.5(135) Duties of the department. The department shall:

1. Certify a hospital's capacity to provide perinatal health care in accordance with criteria established under these rules.
2. Provide technical assistance to the hospitals that choose to participate.
3. Review the submitted levels-of-care assessment tool from all participating hospitals.
4. Conduct or coordinate the on-site verification of determined levels of care for maternal and neonatal care hospitals designated as Level II, Level III and Level IV.
5. Facilitate all meetings of the perinatal guidelines advisory committee.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 4. Rescind rule 641—150.6(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.6(135) Maternal and neonatal levels of care—categorization and verification. Categorization and verification of hospitals participating in Iowa's regionalized system of perinatal health care shall be made by the department based on national recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists.

150.6(1) *Application for initial verification.*

a. An application for initial verification may be submitted when:

(1) A new hospital with a perinatal service is opened;

(2) A hospital is reopening a previously inactive obstetrical unit; or

(3) A hospital requests a change to a higher-level designation in maternal care or neonatal care.

b. A hospital requesting an initial verification may obtain application materials from the department upon written request to:

Iowa Department of Public Health
Bureau of Family Health
Regionalized System of Perinatal Health Care Coordinator
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075

150.6(2) *Application for a hospital that has previously participated in the regionalized system of perinatal health care.*

a. If a hospital chooses to continue its participation, the hospital must select the levels for maternal care and neonatal care appropriate for the hospital's capacity to provide perinatal health care in accordance with the criteria outlined in these rules.

b. To maintain continuous participation in the regionalized system of perinatal health care, a hospital shall complete the levels-of-care assessment tool and an attestation statement available at idph.iowa.gov/perinatal-care and mail them by April 11, 2019, to:

Iowa Department of Public Health
Bureau of Family Health
Regionalized System of Perinatal Health Care Coordinator
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075

c. The department shall set dates when each hospital's certification of verification will expire based on the statewide perinatal health care team's site visit schedule and the level of care selected.

150.6(3) *Reverification of level designation.* The levels-of-care assessment tool will be used for all reverifications. The tool is found at idph.iowa.gov/perinatal-care. The process of reverification of a hospital participating in the regionalized system of perinatal health care will take place once every three years as follows:

a. Reverification of a Level I maternal care or neonatal care hospital will be completed through the use of the levels-of-care assessment tool. A hospital shall complete and return the levels-of-care assessment tool to the department at least 60 days before the hospital's certification is due to expire.

b. Reverification of a Level II or Level III maternal care or neonatal care hospital will be completed through use of the levels-of-care assessment tool and an on-site reverification visit. A hospital shall complete and return the levels-of-care assessment tool to the department at least 120 days before the hospital's certification is due to expire. The department will ensure that arrangements are made for the on-site reverification visit. Level II and Level III hospitals may utilize one of two on-site reverification visit options:

(1) A review conducted by the statewide perinatal care team, or

(2) A review by an independent out-of-state team identified by the hospital, approved by the department and paid for by the hospital.

c. Reverification of a Level IV maternal care and neonatal care hospital will be completed through the same process as that for a Level II or Level III maternal care or neonatal care hospital except that the on-site reverification team will consist of an out-of-state team identified by the hospital and approved by the department. The team will include, at a minimum, a maternal-fetal specialist, a neonatologist, an obstetrical nurse and a neonatal nurse. The Level IV hospital will pay the expense of the review team.

All department staff and staff contracted by the department involved in the on-site reverification process will sign a confidentiality statement that will be kept on file at the department.

d. Reverification shall not be construed to imply any guarantee on the part of the department as to the level of perinatal health care services available at a hospital.

e. Hospital reverification of the level of care is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

f. As part of the reverification and renewal process, the department or a designated survey team may conduct periodic on-site reviews of the services of the maternal care and neonatal care hospitals, including chart reviews.

150.6(4) *Level designation maintenance, variance and confidential records.*

a. A hospital which is unable to maintain its designated level of care shall notify the department, in writing, within 60 days of the change in capacity to meet the designated level of care.

b. The director may grant a variance from the requirements of rules adopted under this chapter for any hospital participating in the regionalized system of perinatal health care.

c. Proceedings, records, and reports developed pursuant to this chapter are confidential pursuant to Iowa Code section 135.11(27) and constitute peer review records under Iowa Code section 147.135, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 5. Rescind rule 641—150.7(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.7(135) Levels of maternal care. The levels of maternal care include basic obstetrical care Level I, specialty care Level II, subspecialty care Level III and regional perinatal health care Level IV. The levels reflect the overall evidence for risk-appropriate care in a hospital through the availability of appropriate personnel, physical space, equipment, technology, and organization. Each level reflects the minimal capabilities, provider type and functional criteria required.

150.7(1) *Level I maternal care hospital.*

a. Provider of basic obstetrical care. A Level I maternal care hospital provides care to women who are low risk and are expected to have an uncomplicated birth.

b. Capabilities. A Level I maternal care hospital has the following capabilities:

(1) To perform routine intrapartum and postpartum care that is anticipated to be uncomplicated. Care of uncomplicated pregnancies includes the ability to detect, stabilize and initiate management of unanticipated maternal, fetal or neonatal problems that occur during the antepartum, intrapartum, or postpartum period until the patient can be transferred to a facility that provides specialty maternal care.

(2) To begin an emergency cesarean delivery within a time interval that best incorporates maternal and fetal risks and benefits with the provision of emergency care.

c. Types of health care providers. A Level I maternal care hospital will have:

(1) Maternity care providers, including midwives, family practice physicians, or obstetrician-gynecologists, available to attend all births.

(2) Every birth attended by at least two professionals, including the primary maternal care provider and a person competent to provide neonatal resuscitation and postnatal care to stabilize the infant.

(3) Adequate numbers of registered nurses available who have completed orientation and demonstrated competence in the care of obstetric patients, including women and fetuses, consistent with Level I care criteria and who are able to stabilize and transfer high-risk women and newborns.

(4) Nursing leadership with expertise in perinatal nursing care.

(5) A provider with privileges to perform an emergency cesarean delivery, available to attend all deliveries. The provider may be a general surgeon, an obstetrician-gynecologist, or a family practice physician with certification.

(6) A provider of anesthesia services available to provide labor analgesia and surgical anesthesia.

d. Functional criteria of support services. Support services include, but are not limited to, access to obstetric ultrasonography, laboratory testing, and blood bank supplies at all times. A Level I maternal care hospital will:

(1) Have protocols and capabilities in place for:

1. Massive transfusion,
2. Emergency release of blood products (before full compatibility testing is complete),
3. Management of multiple component therapy.

(2) Ensure optimal care of all pregnant women by having formal transfer plans established in partnership with a higher-level receiving hospital. These plans will include:

1. Risk identification,
2. Determination of conditions necessitating consultation,
3. Referral and transfer, and
4. A reliable, accurate, and comprehensive communication system between the participating hospital and the transport team.

(3) Have education and quality improvement programs to maximize patient safety, provide such programs through collaboration with facilities with higher levels of care that receive transfers, or both.

(4) Have data collection, storage and retrieval to support quality improvement.

150.7(2) *Level II maternal care hospital.*

a. Provider of specialty care. In addition to meeting the criteria of a Level I maternal care hospital, a Level II maternal care hospital provides care of appropriate high-risk pregnant women, both those directly admitted to the hospital and those transferred from another hospital.

b. Capabilities. In addition to having the capabilities of a Level I maternal care hospital, a Level II maternal care hospital has the following capabilities:

(1) The infrastructure for continuous availability of adequate numbers of registered nurses who have demonstrated competence in the care of obstetric patients (women and fetuses).

(2) Orientation and demonstrated competence consistent with Level II care criteria and the capability to stabilize and transfer high-risk women and newborns who exceed Level II care criteria.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

(1) Health care providers, including midwives or family physicians.

(2) Nursing leaders and staff with formal training and experience in the provision of perinatal nursing care who can coordinate with respective neonatal care services.

(3) An attending obstetrician-gynecologist available at all times.

(4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care as the director of obstetric services.

(5) Access to a maternal-fetal medicine subspecialist for consultation, available on site, by telephone, or by telemedicine as needed.

(6) A provider of anesthesia services available at all times to provide labor analgesia and surgical anesthesia.

(7) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia, available for consultation.

(8) Medical and surgical consultants available to stabilize obstetric patients who have been directly admitted to the facility or transferred from other hospitals.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

(1) Computed tomography scan and, ideally, magnetic resonance imaging with interpretation available.

(2) Basic ultrasonographic imaging services for maternal and fetal assessment at all times, either in house or on call.

(3) Special equipment needed to accommodate the care and services needed for obese women. In addition, based on the patient's BMI and other risk factors, a consultation with an obstetrician-gynecologist or a maternal fetal medicine specialist should be considered.

(4) The ability to provide high-risk obstetrical care, but efforts should be made to transfer women whose newborns are likely to need a higher level of care than a Level II maternal care hospital can provide, or when the pregnancy has risk factors that require the consultation or care of a maternal-fetal medicine specialist.

150.7(3) *Level III maternal care hospital.*

a. Provider of subspecialty care. A Level III maternal care hospital provides care to women that includes all Level I and Level II services and has subspecialists available on site, by telephone, or by telemedicine to assist in providing care for more complex maternal and fetal conditions.

b. Capabilities. A Level III maternal care hospital functions as the regional perinatal health care center for some areas of Iowa if there are no Level IV maternal care hospitals available. In these areas, a Level III maternal care hospital will be responsible for the leadership; facilitation of transport and referral; educational outreach; and data collection, storage and retrieval to support quality improvement. Designation of Level III maternal care hospital should be based on the demonstrated experience and capability of the facility to provide comprehensive management of severe maternal and fetal complications.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

(1) An obstetrician-gynecologist with inpatient privileges, available on site at all times.

(2) A maternal-fetal medicine subspecialist with inpatient privileges, available at all times, either on site, by telephone, or by telemedicine.

(3) A director of the maternal-fetal medicine service who is a board-certified or board-eligible maternal-fetal medicine subspecialist.

(4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care directing obstetric services.

(5) A provider of anesthesia services available at all times on site.

(6) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.

(7) A full complement of subspecialists, available for inpatient consultations, including subspecialists in:

1. Critical care,
2. General surgery,
3. Infectious disease,
4. Hematology,
5. Cardiology,
6. Nephrology,
7. Neurology, and
8. Neonatology.

(8) Nursing leaders and adequate numbers of registered nurses who have completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level III care criteria, including the transfer of high-risk women who exceed Level III care criteria, and who have special training and experience in the management of women with complex maternal illnesses and obstetric complications. Nursing personnel will be continuously available.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

(1) An on-site intensive care unit to accept pregnant women.

(2) Critical care providers on site to actively collaborate with maternal-fetal specialists at all times.

(3) Equipment and personnel with expertise available on site to ventilate and monitor women in the labor and delivery unit until they can be safely transferred to the intensive care unit.

(4) The ability to provide the following imaging services, with interpretation available at all times:

1. Basic interventional radiology,
2. Maternal echocardiography,
3. Computed tomography,

4. Magnetic resonance imaging, and

5. Nuclear medicine imaging.

(5) The ability to perform detailed obstetric ultrasonography and fetal assessment, including Doppler studies.

150.7(4) *Level IV maternal care hospital.*

a. Provider of services as a regional perinatal health care center. In addition to meeting the requirements for a Level III maternal care hospital, a Level IV maternal care hospital provides care to women with additional requirements and has considerable experience in the care of the most complex and critically ill pregnant women throughout antepartum, intrapartum, and postpartum care. The particular specialty of fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities may not all be available at an individual Level IV maternal care hospital. In some cases, specific advanced care will require care coordination to the Level IV maternal care hospital by availability of specific expertise, including but not limited to fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities. Each hospital will have a clear understanding of the categories of perinatal patients who can be managed appropriately in the local hospital and those who must be transferred.

b. Capabilities. Although Level III and Level IV maternal care hospitals may seem to overlap, a Level IV maternal care hospital is distinct from a Level III maternal care hospital in the approach to the care of pregnant women and women in the postpartum period with complex and critical illnesses. In addition to having an intensive care unit on site for obstetric patients, a Level IV maternal care hospital must have evidence of a maternal-fetal medicine care team that has the expertise to assume responsibility for pregnant women and women in the postpartum period who are in critical condition or have complex medical conditions. The maternal-fetal medicine team collaborates actively in the co-management of all obstetric patients who require critical care and intensive care unit services, including co-management of intensive care unit-admitted obstetric patients.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

(1) A maternal-fetal medicine team member with full privileges, available at all times for on-site consultation and management.

(2) A board-certified maternal-fetal medicine subspecialist with expertise in critical care obstetrics to lead the team.

(3) A maternal-fetal medicine team with expertise in critical care at the physician level, nursing level, and ancillary services level.

(4) Institutional support for the routine involvement of a maternal-fetal medicine care team with the critical care units and specialists. A key principle of caring for critically ill pregnant and peripartum women is the hospital's recognition of the need for seamless communication between maternal-fetal medicine subspecialists and other subspecialists in the planning and facilitation of care for women with the most high-risk complications of pregnancy.

(5) A commitment to having physician and nursing leaders with expertise in maternal intensive and critical care, as well as adequate numbers of available registered nurses in a Level IV maternal care hospital who have experience in the care of women with complex medical illnesses and obstetric complications; this experience includes completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level IV maternal care criteria.

(6) A director of obstetric services who is a board-certified maternal-fetal medicine subspecialist or a board-certified obstetrician-gynecologist with expertise in critical care obstetrics.

(7) A provider of anesthesia services available on site at all times.

(8) A board-certified anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.

(9) Adult medical and surgical specialty and subspecialty consultants, a minimum of those listed for a Level III maternal care hospital, available on site at all times to collaborate with the maternal-fetal medicine care team.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

(1) The capability for on-site medical and surgical care of complex maternal conditions (e.g., congenital maternal cardiac lesions, vascular injuries, neurosurgical emergencies, and transplants) with the availability of critical (or intensive) care unit beds.

(2) Perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications, outcomes and quality improvement.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 6. Rescind rule 641—150.8(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.8(135) Maternal-fetal transport—all levels. Maternal-fetal transport is an essential component of perinatal care. A hospital participating in the regionalized system of perinatal health care must be familiar with its own resources and capabilities in dealing with obstetrical and neonatal complications. In most instances, maternal-fetal transport is preferable to neonatal transport. Each hospital, when transporting or accepting a transport, needs a system in place to facilitate a smooth transition of care in the most expeditious manner possible. The majority of maternal-fetal transports can be carried out by ground transportation. It is important for ambulance services to be equipped for maternal-fetal transport and have appropriately trained staff.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 7. Rescind rule 641—150.9(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.9(135) Levels of neonatal care. The levels of neonatal care include basic neonatal care Level I, specialty care Level II, and subspecialty intensive care Level III and Level IV. The levels reflect the overall evidence for risk-appropriate care through the availability of appropriate functional criteria, physical facilities, medical and nursing personnel, outreach education, allied health personnel and services, infection control, newborn or neonatal safety, neonatal transport and quality improvement.

150.9(1) *Level I neonatal care hospital.*

a. Provider of basic neonatal care. A Level I neonatal care hospital provides a basic level of care to neonates without complications. A Level I neonatal care hospital has the following capabilities:

(1) To provide neonatal resuscitation at every delivery.

(2) To evaluate and provide postnatal care to stable term newborn infants.

(3) To stabilize and provide care for infants born at 35 to 37 weeks' gestation who remain physiologically stable.

(4) To stabilize newborn infants who are ill and those born at less than 35 weeks' gestation until transfer to a higher level of care.

(5) To provide leadership in early risk identification before and after birth.

(6) To seek consultation or referral for high-risk neonates.

(7) To provide public and professional education.

b. Functions. A Level I neonatal care hospital has a family-centered philosophy. Parents have reasonable access to their newborns 24 hours a day within all functional units and are encouraged to participate in the care of their newborns. Generally, a newborn can be with its parents in the mother's room.

c. Physical facilities. A Level I neonatal care hospital will maintain a nursery for normal-term or late preterm neonates.

d. Medical personnel. At a Level I neonatal care hospital, neonatal care is under the supervision of one of the following:

(1) A board-eligible or board-certified neonatologist,

(2) A pediatrician,

(3) A family medicine physician,

(4) A board-eligible or board-certified advanced registered nurse practitioner, or

(5) A physician assistant.

e. Nursing personnel. At a Level I neonatal care hospital, a nurse assigned to the neonatal service will demonstrate competency in the care of a neonate.

f. Outreach education. A Level I neonatal care hospital will assume an active role in the development and coordination of wellness and preventive programs concerning neonatal and child health at the community level, including parenting, breastfeeding, and cessation of smoking.

g. Allied health personnel and services. A Level I neonatal care hospital will have available, at a minimum, the following allied health personnel and services:

(1) Dietitian with knowledge of maternal and neonatal nutrition management,

(2) Social worker,

(3) Bioengineer-safety and environmental control,

(4) Pharmacy,

(5) Radiology,

(6) Laboratory,

(7) Pathology, and

(8) Chaplain, spiritual support.

h. Infection control.

(1) Each Level I neonatal care hospital will establish written policies and procedures for assessing the health of personnel assigned to the perinatal care services and of those who have significant contact with the newborn. The policies and procedures will include restricting contact with patients when necessary and screening for tuberculosis and rubella. Routine culturing of specimens obtained from personnel is not useful, although selective culturing may be of value when a pattern of infection is suspected.

(2) No special or separate isolation facility is required for neonates born at home or in transit to the hospital. Detailed descriptions of the isolation categories and requirements will be available in each hospital's infection control manual.

i. Newborn safety. At a Level I neonatal care hospital, the protection of newborns is the responsibility of all personnel in the neonatal care hospital. Newborns will always be within the sight and supervision of hospital staff, the mother, or other family members or friends designated by the mother. Each neonatal care hospital has a policy established that addresses strategies to promote newborn safety.

150.9(2) *Level II neonatal care hospital.*

a. Provider of specialty care. In addition to meeting the requirements for care and services as a Level I neonatal care hospital, a Level II neonatal care hospital will:

(1) Provide management of certain high-risk neonates with selected complications.

(2) Have a board-certified or board-eligible neonatologist(s) or a board-certified or board-eligible pediatrician(s) on staff, one of whom directs the special care nursery.

b. Functions. In addition to performing the functions of a Level I neonatal care hospital, a Level II neonatal care hospital will have the capability to:

(1) At a minimum, manage neonates of greater than or equal to 32 weeks' gestation and weighing greater than or equal to 1,500 grams who have physiological immaturity or who are moderately ill with problems that are expected to resolve rapidly and are not anticipated to need subspecialty services on an urgent basis and, for neonates of 32 weeks' gestation and weighing less than 1,500 grams, recommend consultation with a higher-level facility by prearranged consultative agreement.

(2) Provide mechanical ventilation for a brief duration (less than 24 hours).

(3) Provide continuous positive airway pressure as needed (less than 24 hours).

(4) Stabilize infants born before 32 weeks and weighing less than 1,500 grams until transfer to a Level III or Level IV neonatal care hospital.

(5) Provide care for infants convalescing after intensive care.

c. Physical facilities. In addition to having the physical facilities of a Level I neonatal care hospital, a Level II neonatal care hospital will have:

(1) A special care nursery (a special area designated for the care of sick neonates),

(2) A mechanical ventilator,

(3) A portable X-ray machine,

(4) A laboratory with a blood gas analyzer,

(5) Physiologic monitoring equipment, and

(6) A pharmacy.

d. Medical personnel. In addition to having the medical personnel of a Level I neonatal care hospital, a Level II neonatal care hospital will:

(1) Be under the co-direction/supervision of a board-eligible or board-certified neonatologist or pediatrician.

(2) Have a neonatologist or pediatrician on staff. Other provider types that may be utilized include a pediatric hospitalist, a neonatal nurse practitioner or pediatric nurse practitioner or a physician assistant with appropriate training.

(3) Have allied medical specialists in various disciplines on staff, including specialists in internal medicine, radiology, and pathology.

e. Nursing personnel. In addition to having the nursing personnel of a Level I neonatal care hospital, a Level II neonatal care hospital has nursing orientation to and demonstrates competency in the care of sick neonates.

f. Outreach education. A Level II neonatal care hospital has the same responsibility for outreach education as that of a Level I neonatal care hospital.

g. Allied health personnel and services. In addition to having the allied health personnel and services of a Level I neonatal care hospital, a Level II neonatal care hospital has:

(1) Respiratory therapists,

(2) Certified laboratory technicians/blood gas technicians, and

(3) X-ray technologists and ultrasound technicians with neonatal/perinatal experience.

h. Infection control. A Level II neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

i. Neonatal safety. A Level II neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. Neonatal transport. In addition to having the Level I neonatal care hospital capabilities for neonatal transport, a Level II neonatal care hospital is expected to accept patient referrals when appropriate. A critical function of providers at a Level II neonatal care hospital is to communicate with the providers at a Level I neonatal care hospital in deciding whether a particular patient should be transported to the Level II neonatal care hospital. Careful assessment of the hospital's capabilities for perinatal management will be critical in these decisions. This information will need to be disseminated among the hospital staff. Providers of obstetric care need to know the critical gestational age limitations for their particular nursery. Below this gestational age, maternal-fetal transport should be utilized if delivery is anticipated and the circumstances permit.

k. Perinatal care committee.

(1) A Level II neonatal care hospital must maintain a perinatal care committee. Members of this committee will represent, at a minimum, the fields of:

1. Obstetrics,
2. Pediatrics,
3. Family practice,
4. Nursing,
5. Administration,
6. Laboratory,
7. Respiratory therapy,
8. Anesthesia, and
9. Social services.

(2) Responsibilities of the perinatal care committee include the following:

1. To develop policies for the unit, including provisions to ensure adequate patient care by qualified providers.
2. To conduct a meeting, at least semiannually, to resolve problems related to the unit.
3. To review educational activities conducted by the unit.
4. To serve as a general liaison between the various groups represented on the committee.

150.9(3) *Level III neonatal care hospital.*

a. Provider of subspecialty intensive care. In addition to providing the care and services of a Level II neonatal care hospital, a Level III neonatal care hospital will manage high-risk neonates, including infants born at less than 32 weeks or weighing less than 1,500 grams. High-risk neonates requiring surgical intervention or pediatric subspecialty should go to a Level IV neonatal care hospital.

b. Functions. In addition to performing the functions of a Level II neonatal care hospital, a Level III neonatal care hospital will have the capability to:

(1) Provide sustained life support.

(2) Provide comprehensive care for infants born at less than 32 weeks and weighing less than 1,500 grams and infants born at all gestations and birth weights who have critical illness.

(3) Provide an organized program for monitoring treatment and follow-up of retinopathy of prematurity.

(4) Maintain a prearranged consultative agreement with a higher-level hospital within the Level III neonatal care hospital's referral area.

(5) Transfer a surgical patient in approximately two hours from the time the referral call is made until arrival at the referral hospital.

(6) Provide follow-up care for high-risk newborns.

c. Physical facilities. In addition to having the physical facilities of a Level II neonatal care hospital, a Level III neonatal care hospital:

(1) Has a neonatal intensive care unit with continuously available personnel, including a neonatologist, neonatal nurses and respiratory therapists to provide life support for as long as necessary.

(2) Provides a full range of respiratory support that includes invasive mechanical ventilation and may include high-frequency ventilation or inhaled nitric oxide or both.

(3) Performs advanced imaging, with interpretation on an urgent basis, including computed tomography, magnetic resonance imaging, and echocardiography.

(4) Maintains a neonatal transport team for the regional area served.

d. Medical personnel. In addition to having the medical personnel of a Level II neonatal care hospital, a Level III neonatal care hospital will:

(1) Have a medical director of the neonatal intensive care unit who is a full-time, board-eligible or board-certified neonatologist.

(2) Provide prompt and readily available access to the following, either on site or by prearranged consultative agreement. Using telemedicine technology or telephone consultation, a prearranged consultation can be performed from a distant location by:

1. Pediatric medical subspecialists,
2. A pediatric surgical specialist,
3. A pediatric anesthesiologist, and
4. A pediatric ophthalmologist.

(3) Have a neonatologist on the premises when an unstable critically ill infant is in the Level III neonatal care hospital.

e. Nursing personnel. A Level III neonatal care hospital has the same requirements for nursing personnel as those of a Level II neonatal care hospital.

f. Outreach education. Outreach education is provided to each hospital in the referral area at least once per year. This outreach education can be achieved by one or more of the following:

(1) Sponsoring an annual conference.

(2) Visiting a Level I neonatal care hospital and a Level II neonatal care hospital.

(3) Providing educational programs and materials for the staff members of the Level I and Level II neonatal care hospitals.

g. Allied health personnel and services. In addition to having the allied health personnel and services of a Level II neonatal care hospital, a Level III neonatal care hospital has:

(1) X-ray technologists and ultrasound technicians with neonatal/perinatal experience, available on a 24-hour basis.

(2) Social work services with social workers assigned specifically to the neonatal units.

h. Infection control. A Level III neonatal care hospital has the same infection control guidelines as those of a Level I neonatal care hospital.

i. Neonatal safety. A Level III neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. Neonatal transport. In addition to having the Level II neonatal care hospital transport capabilities, a Level III neonatal care hospital is capable of providing neonatal transport with crews who have demonstrated competence in neonatal resuscitation and stabilization. Important decisions to be made jointly will include:

(1) The appropriateness of transport.

(2) The best mode of transportation.

(3) The need for additional personnel accompanying the transport.

(4) The appropriate medical management to initiate prior to transport.

k. Perinatal care committee. A Level III neonatal care hospital shall maintain a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital.

150.9(4) *Level IV neonatal care hospital.*

a. Provider of subspecialty intensive care. In addition to providing the level-of-care services of a Level III neonatal care hospital, a Level IV neonatal care hospital manages higher-risk neonates. The differentiating factor between a Level III neonatal care hospital and a Level IV neonatal care hospital is primarily one of having additional professional staff with considerable experience in the care of the most complex and critically ill infants and having the ability to provide surgical repair of complex congenital or acquired conditions.

b. Physical facilities. In addition to having the physical facilities of a Level III neonatal care hospital, a Level IV neonatal care hospital has more equipment, more extensive physical facilities and will serve a more complicated patient population.

c. Medical personnel. In addition to having the medical personnel of a Level III neonatal care hospital, a Level IV neonatal care hospital will:

(1) Have a medical director of the neonatal intensive care unit who is a full-time, board-certified neonatologist.

(2) Have anesthesia providers on staff with special training or experience in pediatric anesthesia.

(3) Maintain a full range of pediatric medical subspecialists and pediatric surgical subspecialists at the site.

(4) Have the subspecialist physicians immediately available to the Level IV neonatal care hospital.

(5) Have a neonatologist on the premises when an unstable critically ill infant is in the Level IV neonatal care hospital.

d. Nursing personnel. A Level IV neonatal care hospital has the same requirements for nursing personnel as those for a Level II neonatal care hospital.

e. Outreach education. A Level IV neonatal care hospital has the same responsibilities for outreach education as those for a Level III neonatal care hospital.

f. Allied health personnel and services. A Level IV neonatal care hospital has the same level of allied health personnel and services as that of a Level III neonatal care hospital.

g. Infection control. A Level IV neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

h. Neonatal safety. A Level IV neonatal care hospital has the same requirements for neonatal safety as those for a Level I neonatal care hospital.

i. Neonatal transport. In addition to meeting the neonatal transport requirements of a Level III neonatal care hospital, a Level IV neonatal care hospital is capable of providing ground and air transportation with crews who have demonstrated competencies in neonatal resuscitation and stabilization.

j. Perinatal care committee. In addition to maintaining a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital, a Level IV neonatal care hospital maintains a perinatal care committee that has additional representation by surgical specialties. The Level IV neonatal care hospital's perinatal care committee will maintain and analyze data on long-term outcomes to evaluate the effectiveness of the delivery of perinatal health care services.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 8. Rescind rule **641—150.10(135,77GA,ch1221)**.

ITEM 9. Renumber rules **641—150.11(135,77GA,ch1221)** to **641—150.13(135,77GA,ch1221)** as **641—150.10(135,77GA,ch1221)** to **641—150.12(135,77GA,ch1221)**.

ITEM 10. Amend renumbered rules 641—150.10(135,77GA,ch1221) to 641—150.12(135,77GA,ch1221) as follows:

641—150.10(135~~,77GA,ch1221~~) Grant or denial of certificate of verification; and offenses and penalties.

150.10(1) Upon receipt of the levels-of-care assessment tool and the on-site survey results, if required, the department shall within 30 days issue its decision to grant or deny the hospital a certificate of verification. The department may deny verification or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe the hospital's perinatal care program has not been or will not be operated in compliance with these rules. The denial, citation and warning, period of probation, suspension, or revocation shall be effected and may be appealed in accordance with the requirements of Iowa Code section 17A.12.

150.10(2) No change.

150.10(3) Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code ~~section~~ sections 22.7 and 135.11(27).

150.10(4) and **150.10(5)** No change.

150.10(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: ~~Iowa Regionalized System of Perinatal Health Care,~~ Iowa Department of Public Health, ~~Division of Health Promotion and Chronic Disease Prevention~~ Bureau of Family Health, Regionalized System of Perinatal Health Care Coordinator, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

150.10(7) to **150.10(13)** No change.

150.10(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: ~~Iowa Regionalized System of Perinatal Health Care,~~ Iowa Department of Public Health, ~~Division of Health Promotion and Chronic Disease Prevention~~ Bureau of Family Health, Regionalized System of Perinatal Health Care Coordinator, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075.

150.10(15) and **150.10(16)** No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—150.11(135~~,77GA,ch1221~~) Prohibited acts. A hospital that imparts or conveys, or causes to be imparted or conveyed, that it is a participating hospital in Iowa's regionalized system of perinatal health care, or that uses any other term, such as a designated level of care, to indicate or imply that the hospital is a participating hospital in the regionalized system of perinatal health care without having obtained a certificate of verification from the department is subject to licensure disciplinary action by the department of inspections and appeals, as well as to the application by the director to the district court for a writ of injunction to restrain the use of the term or terms ~~"Level I hospital," "Level II hospital," "Level II regional center," "Level II regional neonatology center," and "Level III center"~~ "Level I maternal care or neonatal care hospital," "Level II maternal care or neonatal care hospital," "Level III maternal care or neonatal care hospital" and "Level IV maternal care or neonatal care hospital" in relation to the provision of perinatal health care services.

641—150.12(135~~,77GA,ch1221~~) Construction of rules. Nothing in these administrative rules shall be construed to restrict a hospital from providing any services for which it is duly authorized.

ITEM 11. Amend **641—Chapter 150**, implementation sentence, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1221, section 5, subsection 4 *"a"*(2)(c)~~ Iowa Code section 135.11(27).

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

The Department of Public Health hereby proposes to amend Chapter 154, "Medical Cannabidiol Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3(1)"b," 124E.11(2)"c," 124E.11(2)"g" and 136.3(9).

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendments add definitions for the proposed new rules for laboratory testing; make minor technical corrections to Iowa Code references; and update the rules on form and quantity of medical cannabidiol, package labeling, quality control program, sampling and testing, and stability testing. New rules are also proposed for laboratory testing.

The Department's Medical Cannabidiol Board made and the Board of Medicine reviewed and approved the form and quantity recommendations included in the proposed amendments. The proposed rules for laboratory testing were developed by the Department with review from the state hygienic laboratory, an independent laboratory in Iowa, and a number of state agencies with current laboratory functions.

Fiscal Impact

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Randy Mayer
Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319
Email: randall.mayer@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 17, 2018	Room 518
1 to 1:30 p.m.	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.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 641—154.1(124E) as follows:

641—154.1(124E) Definitions. For the purposes of these rules, the following definitions shall apply:

"Acceptance criteria" means the specified limits placed on characteristics of an item or method that are used to determine data quality.

"Accreditation" means the procedure by which an authoritative body gives formal recognition that an organization is competent to carry out specific tasks and verifies that the appropriate quality management system is in place.

"Accredited nonpublic school" means any nonpublic school accredited by the Iowa state board of education, excluding home schools.

"Action level" means the threshold value that provides the criterion for determining whether a sample passes or fails a test performed pursuant to these rules.

"Aliquot" means a portion of a sample that is used in an analysis.

"Analyte" means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

"Analytical batch" means a group of samples that are prepared together for the same analysis and analyzed sequentially using the same instrument calibration curve and common analytical quality control checks.

"Analytical method" means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

"Audit" means a financial review by an independent certified public accountant that includes select scope engagement or other methods of review that analyze operational or compliance issues.

"Background investigation" means a thorough review of an entity, an owner, investors, and employees conducted by the department of public safety, including but not limited to state and national criminal history records, credit records, and internal revenue service records.

"Batch" means a set of cannabis plants that are grown, harvested, and processed together, such that they are exposed to substantially similar conditions throughout cultivation and processing.

"Batch number" means a unique numeric or alphanumeric identifier assigned to a batch of cannabis plants by a manufacturer when the batch is first planted. The batch number shall contain the manufacturer's number and a sequence to allow for inventory and traceability.

"Biosecurity" means a set of preventative measures designed to reduce the risk of transmission of:

1. Infectious diseases in crops;
2. Quarantined pests;
3. Invasive alien species;
4. Living modified organisms.

"Bordering state" means the same as defined in Iowa Code section 331.910.

"Cannabinoid" means a chemical compound that is unique to and derived from cannabis.

"Cannabis" means seeds, plants, cuttings, or plant waste material from *Cannabis sativa* L. or *Cannabis indica* used in the manufacture of medical cannabidiol.

"CAS number" means a unique numerical identifier assigned to every chemical substance described in the open literature by Chemical Abstracts Service.

"CBD" means cannabidiol, Chemical Abstracts Service number 13956-29-1.

"CBDA" means cannabidiolic acid, Chemical Abstracts Service number 1244-58-2.

"CBG" means cannabigerol, Chemical Abstracts Service number 25654-31-3.

"CBN" means cannabinol, Chemical Abstracts Service number 521-35-7.

"Certificate of analysis" means the report prepared for the requester about the analytical testing performed and the results obtained by a laboratory.

"Certification" means a procedure by which a third party gives written assurance (certificate of conformity) that a product, process or service conforms to specified requirements.

"Certified" means a laboratory demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified in the department's requirements for certification and meets the minimum requirements of this chapter and all applicable regulatory requirements.

"Certified reference material" means a reference material prepared by a certifying body.

"Crop input" means any substance applied to or used in the cultivation and growth of a cannabis plant. "Crop input" includes, but is not limited to, pesticides, fungicides, fertilizers, and other soil or medium amendments.

"Data-quality assessment" means a scientific and statistical process that establishes whether the collected data are of the right type, quality, and quantity to support the intended use of the data.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"Date of expiration" means one year from the date of issuance of the medical cannabidiol registration card by the department of transportation.

"Date of issuance" means the date of issuance of the medical cannabidiol registration card by the department of transportation.

"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.

"Department" means the Iowa department of public health.

"Department of transportation" means the Iowa department of transportation.

"Director" means the director of the Iowa department of public health.

"Dispensary" means an individual or entity licensed by the department to dispense medical cannabidiol to patients and primary caregivers pursuant to Iowa Code chapter 124E and these rules. "Dispensary" includes the employees and agents of the dispensary.

"Dispensary facility" means any secured building, space, grounds, and physical structure of a dispensary licensed by the department to dispense medical cannabidiol and where the dispensing of medical cannabidiol is authorized.

"Dispense" or *"dispensing"* means to supply medical cannabidiol to patients pursuant to Iowa Code chapter 124E and these rules.

"Disqualifying felony offense" means a violation under federal or state law of a felony under federal or state law, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. §802(6).

"Edible medical cannabidiol products" means food items containing medical cannabidiol. "Edible medical cannabidiol products" does not include pills, tinctures, oils, or other forms of medical cannabidiol that may be consumed orally or through the nasal cavity that do not contain food or food additives; provided that food or food additives used as carriers, excipients, or processing aids shall not be considered food or food additives.

"Field duplicate sample" means a sample that is taken in the identical manner and from the same batch, process lot, or lot being sampled as the primary sample. A field duplicate sample is analyzed separately from the primary sample and is used for quality control only.

"Form and quantity" means the types and amounts of medical cannabidiol allowed to be dispensed to a patient or primary caregiver as approved by the department subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

"Frequency" means the number of items occurring in a given category. Frequency may be determined by analytical method or laboratory-specific requirements for the purpose of accuracy, precision of the analysis, or statistical calculation.

"Health care practitioner" means an individual licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery who is a patient's primary care provider.

"Health care practitioner" shall not include a physician assistant licensed under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.

"Increment" or *"sample increment"* means a smaller sample that, together with other increments, makes up the primary sample.

"Inspection" means an on-site evaluation by the department, the department of public safety, or a department-approved independent consultant of facilities, records, personnel, equipment, methodology, and quality assurance practices for compliance with these rules.

"International Electrotechnical Commission" or *"IEC"* means an independent, nongovernmental membership organization that prepares and publishes international standards for all electrical, electronic, and related technologies.

"International Organization for Standardization" or *"ISO"* means an independent, nongovernmental membership organization and the largest developer of voluntary international standards.

"Laboratory" means the state hygienic laboratory at the University of Iowa or other independent medical cannabidiol testing facility accredited to Standard ISO/IEC 17025 by an ISO-approved accrediting body, with a controlled substance registration certificate from the Drug Enforcement Administration of the U.S. Department of Justice and a certificate of registration from the Iowa board of pharmacy, and approved by the department to examine, analyze, or test samples of medical cannabidiol or any substance used in the manufacture of medical cannabidiol.

"Limit of detection" or *"LOD"* means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.

"Limit of quantitation" or *"LOQ"* means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.

"Lot" means a specific quantity of medical cannabidiol that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling record.

"Lot number" means a unique numeric or alphanumeric identifier assigned to a lot by a manufacturer when medical cannabidiol is produced. The lot number shall contain the manufacturer's number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of a lot of medical cannabidiol.

"Manufacture" or *"manufacturing"* means the process of converting harvested cannabis plant material into medical cannabidiol.

"Manufacturer" means an individual or entity licensed by the department to produce medical cannabidiol and distribute it to dispensaries pursuant to Iowa Code chapter 124E and these rules. "Manufacturer" includes the employees and agents of the manufacturer.

"Manufacturing facility" means any secured building, space, grounds, and physical structure of a manufacturer for the cultivation, harvesting, packaging, processing, storage, and distribution of cannabis or medical cannabidiol and where access is restricted to designated employees of a manufacturer and escorted visitors.

"Market withdrawal" means the voluntary removal of medical cannabidiol from dispensaries and patients by a manufacturer for minor issues that do not pose a serious health threat.

"Mass spectrometry" means an analytical technique that ionizes chemical species and sorts the ions based on their mass-to-charge ratio.

"Matrix" means the component or substrate that contains the analyte of interest.

"Matrix spike duplicate" means a duplicate sample prepared by adding a known quantity of a target analyte to a field sample matrix or other matrix that is as closely representative of the matrix under analysis as possible.

"Matrix spike sample" means a sample prepared by adding a known quantity of the target analyte to a field sample matrix or to a matrix that is as closely representative of the matrix under analysis as possible.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"Medical assistance program" means IA Health Link, Medicaid Fee-for-Service, or HAWK-I, as administered by the Iowa Medicaid enterprise of the Iowa department of human services.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof that has a tetrahydrocannabinol level of no more than 3 percent and that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and designated in this chapter.

"Medical cannabidiol waste" means medical cannabidiol that is returned, damaged, defective, expired, or contaminated.

"Medical cannabis goods" means medical cannabidiol process lots, medical cannabidiol products, and cannabis plant material, including dried tissue.

"Method blank" means an analyte-free matrix to which all reagents are added in the same volumes or proportions as are used in sample preparation.

"Moisture content" means the percentage of water in a dry sample by weight.

"National criminal history background check" means fingerprint processing through the department of public safety and the Federal Bureau of Investigation (FBI) and review of records on file with national organizations, courts, and law enforcement agencies to the extent allowed by law.

"Non-target organism" means an organism that the test method or analytical procedure is not testing for. Non-target organisms are used in evaluating the specificity of a test method.

"Patient" means a person who is a permanent resident of the state of Iowa who suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E and these rules.

"Percent recovery" means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material, matrix spike sample, or matrix spike duplicate.

"Permanent resident" means a natural person who physically resides in Iowa as the person's principal and primary residence and who establishes evidence of such residency by providing the department with one of the following:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A valid Iowa voter registration card,
4. A current Iowa vehicle registration certificate,
5. A utility bill,
6. A statement from a financial institution,
7. A residential lease agreement,
8. A check or pay stub from an employer,
9. A child's school or child care enrollment documents,
10. Valid documentation establishing a filing for homestead or military tax exemption on property located in Iowa, or
11. Other valid documentation as deemed acceptable by the department to establish residency.

"Pharmaceutical grade" means medical cannabidiol that meets standards for content, contamination, and consistency set by the department as determined by testing conducted at a laboratory pursuant to Iowa Code chapter 124E and these rules.

"Plant material" means any cannabis plant, cutting, trimming, or clone that has roots or that is cultivated with the intention of growing roots.

"Plant material waste" means plant material that is not used in the production of medical cannabidiol in a form allowable under these rules.

"Primary caregiver" means a person who is a resident of this state or a bordering state, including but not limited to a parent or legal guardian, at least 18 years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of Iowa Code chapter 124E and these rules.

"Primary care provider" means any health care practitioner involved in the diagnosis and treatment of a patient's debilitating medical condition.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"Primary sample" means a portion of a batch, process lot, or lot that is used for testing for identity, strength, purity, and composition.

"Process lot" means any amount of cannabinoid concentrate or extract that is uniform, produced from one or more batches, and used for testing for identity, strength, purity, and composition prior to being packaged.

"Product expiration date" means the date after which a medical cannabidiol product may not be sold by a manufacturer or a dispensary.

"Production" or *"produce"* means:

1. Cultivating or harvesting plant material;
2. Processing or manufacturing; or
3. Packaging of medical cannabidiol.

"Proficiency test" means an evaluation of a laboratory's performance against preestablished criteria by means of interlaboratory comparisons of test measurements.

"Proficiency test sample" means a sample prepared by a party independent of the testing laboratory, with a concentration and identity of an analyte that is known to the independent party but is unknown to the testing laboratory and testing laboratory personnel.

"Public or private school" means any property operated by a school district, charter school, or accredited nonpublic school for purposes related to elementary, middle, or secondary schools or secondary vocation centers.

"Qualitative analysis" means identification of an analyte in a substance or mixture.

"Quality assurance" means a set of operating principles to produce data of known accuracy and precision. "Quality assurance" encompasses employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.

"Quality control" means a set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control in which errors have been reduced to acceptable levels.

"Quality control samples" means samples produced and used for the purpose of assuring quality control. Quality control samples include but are not limited to blank samples, spike samples, duplicate samples, and reference material samples.

"Quantitative analysis" means measurement of the quantities of chemical components present in a substance or mixture. Quantitative analysis typically uses a certified reference material, if available, to create a calibration curve.

"Reagent" means a compound or mixture added to a system to cause a chemical reaction or to test if a reaction occurs. A reagent may be used to tell whether or not a specific chemical substance is present by causing a reaction to occur with the chemical substance.

"Recall" means the return of medical cannabidiol from patients and dispensaries to a manufacturer because of the potential for serious health consequences from the use of the medical cannabidiol.

"Reference material" means a material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix. Reference material is used to document the bias of the analytical process.

"Reference method" means a method by which the performance of an alternate method is measured or evaluated.

"Relative percent difference" or *"RPD"* means a comparative statistic used to calculate precision or random error. RPD is calculated using the following equation: RPD = absolute value (primary sample measurement - duplicate sample measurement) / ([primary sample measurement + duplicate sample measurement] / 2) × 100.

"Relative standard deviation" or *"RSD"* means the standard deviation expressed as a percentage of the mean recovery. "RSD" is the coefficient of variation multiplied by 100. If any results are less than the limit of quantitation, then the absolute value of the limit of quantitation is used in the following equation: RSD = (s / x) × 100, where s = standard deviation and x = mean recovery.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"Requester" means a person who submits a request to a licensed testing laboratory for state-mandated testing of medical cannabis goods. The requester may be a licensed manufacturer or the department.

"Residual solvents and processing chemicals" means volatile organic chemicals that are used or produced in the manufacture or production of medical cannabidiol.

"Restricted access area" means a building, room, or other contiguous area on the premises where plant material is grown, cultivated, harvested, stored, packaged, or processed for sale under control of the manufacturer, and where no person under the age of 18 is permitted.

"Sample" means a representative part of or a single item from a larger whole or group.

"Sanitize" means to sterilize, disinfect, or make hygienic.

"Semiquantitative analysis" means less than quantitative precision and does not involve a full calibration. Analyte identification is based on a single-point reference or high-probability library match. The determination of amount uses the ratio of the unknown chemical analyte to that of a known analyte added to the sample before analysis. Uncertainty for semiquantitative results is higher than for quantitative results.

"Significant figures" means the number of digits used to express a measurement.

"Stability" or *"stable"* means that after storage of an unopened package of medical cannabidiol, the contents shall not vary in concentrations of THC and CBD by more or less than 15 percent by weight in milligrams per milliliter (mg/ml) for liquids and milligrams per gram (mg/g) for solids from the concentration indicated on the package label. Thus, after storage, a solid product labeled as containing a concentration of CBD of 10 milligrams per gram shall have a detected concentration of CBD that is no more than 11.50 milligrams per gram and no less than 8.50 milligrams per gram.

"Standard operating procedure" means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Synthetic cannabinoid" means a designed compound with structural features that allow binding to the known cannabinoid receptors present in human cells and that produce biological effects similar to those of natural cannabinoids.

"Tamper-evident" means that one or more one-time-use seals are affixed to the opening of a package, allowing a person to recognize whether or not the package has been opened.

"Target organism" means an organism that is being tested for in an analytical procedure or test method.

"Testing laboratory record" means information relating to the testing laboratory and the analyses it performs that is prepared, owned, used, or retained by the laboratory and includes electronic files and video footage.

"THC" or *"delta-9 THC"* means tetrahydrocannabinol, Chemical Abstracts Service number 1972-08-3.

"THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service number 23978-85-0.

"Untreatable pain" means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

"Validation" means the confirmation by examination and objective evidence that the particular requirements for a specific intended use are fulfilled.

"Written certification" means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

ITEM 2. Amend rule 641—154.14(124E) as follows:

641—154.14(124E) Form and quantity of medical cannabidiol.

~~**154.14(1)** *Patient.* A patient in possession of a valid medical cannabidiol registration card issued pursuant to this chapter shall not possess a quantity of medical cannabidiol in excess of 32 ounces.~~

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~~**154.14(2)** *Primary caregiver.* A primary caregiver in possession of a valid medical cannabidiol registration card issued pursuant to this chapter shall not possess a quantity of medical cannabidiol in excess of 32 ounces for each patient for whom the person is registered as a primary caregiver.~~

~~**154.14(3)** *Form and quantity.*~~ The form and quantity of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board ~~established pursuant to Iowa Code chapter 124E and~~, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.

154.14(1) *Quantity.* A 90-day supply is the maximum amount of each product that shall be dispensed by a dispensary at one time.

154.14(2) *Form.*

a. A manufacturer may only manufacture medical cannabidiol in the following forms:

(1) Oral forms, including but not limited to:

1. Tablet.
2. Capsule.
3. Liquid.
4. Tincture.
5. Sublingual.

(2) Topical forms, including but not limited to:

1. Gel.
2. Ointment, cream or lotion.
3. Transdermal patch.

(3) Nebulizable inhaled forms.

(4) Rectal/vaginal forms, including but not limited to suppository.

b. A manufacturer may not produce medical cannabidiol in any form that may be smoked.

c. A manufacturer may not produce medical cannabidiol in an edible form as defined in rule 641—154.1(124E).

ITEM 3. Amend paragraph **154.17(2)"h"** as follows:

h. Sell medical cannabidiol that is not packaged and labeled in accordance with rule ~~645—154.21(124E)~~ 641—154.21(124E);

ITEM 4. Amend subparagraph **154.21(1)"c"(1)** as follows:

(1) Of sufficient size to accommodate a separate dispensary label containing the information described in rule ~~645—154.46(124E)~~ 641—154.46(124E);

ITEM 5. Amend subrule 154.21(3) as follows:

154.21(3) *Package labeling.*

a. A manufacturer shall ensure that all medical cannabidiol packaging is labeled with the following information:

(1) The name and address of the manufacturer where the medical cannabidiol was manufactured;

(2) The medical cannabidiol's primary active ingredients, including ~~levels~~ concentrations of tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid;

(3) Directions for use of the product, including recommended and maximum amount by age and weight, if applicable;

(4) All ingredients of the product shown with common or usual names, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight;

(5) Instructions for storage, including light and temperature requirements, if any;

(6) ~~Date of expiration~~ Product expiration date;

(7) The date of manufacture and lot number;

(8) A notice with the statement, including capitalization: "This product has not been analyzed or approved by the United States Food and Drug Administration. There is limited information on the side effects of using this product, and there may be associated health risks and medication interactions. This product is not recommended for use by pregnant or breastfeeding women. KEEP THIS PRODUCT OUT OF REACH OF CHILDREN.";

(9) The universal warning symbol provided by the department; and

(10) A notice with the statement: "This medical cannabidiol is for therapeutic use only. Use of this product by a person other than the patient listed on the label is unlawful and may result in the cancellation of the patient's medical cannabidiol registration card. Return unused medical cannabidiol to a dispensary for disposal."

b. Labeling text shall not include any false or misleading statements.

c. A package may contain multiple labels if the information required by this rule is not obstructed.

d. Labeling text font size shall be no smaller than 6 point.

ITEM 6. Amend subrules 154.26(1), 154.26(3) and 154.26(4) as follows:

154.26(1) *Quality control program.* A manufacturer shall develop and implement a written quality assurance program that assesses the chemical and microbiological composition of medical cannabidiol. Assessment includes a profile of the active ingredients, including shelf life, and the presence of inactive ingredients and contaminants. A manufacturer shall use these testing results to determine appropriate storage conditions and product expiration dates.

154.26(3) *Sampling and testing.* A manufacturer shall:

a. Work with the department and laboratory personnel to develop acceptance criteria for all potential contaminants based on the levels of metals, microbes, or other contaminants that the manufacturer uses in cultivating and producing medical cannabidiol;

b. Conduct sampling and testing of all medical cannabidiol lots using acceptance criteria that are protective of patient health. At a minimum, testing of lots shall occur after packaging but before transport or sale to a dispensary. The sampling and testing results shall be approved by the department and laboratory personnel and shall ensure that lots of medical cannabidiol meet allowable health risk limits for contaminants;

c. Refrain from ~~packing~~ packaging or selling ~~a~~ medical cannabidiol from a process lot that fails to meet established standards, specifications, and any other relevant quality control criteria. ~~Lots~~ Medical cannabidiol from a process lot that ~~fail~~ fails quality assurance testing ~~for potency or for residual solvents and chemicals~~ may be remixed and retested;

d. Reject and destroy medical cannabidiol from a lot that fails to meet established standards, specifications, and any other relevant quality control criteria except for potency of CBD and THC. Medical cannabidiol from a lot that fails quality assurance testing based on potency of CBD or THC may be remixed and retested;

~~*d.*~~ *e.* Develop and follow a written procedure for responding to results failing to meet established standards, specifications, and any other relevant quality control criteria, including:

(1) Criteria for when remixing and retesting are warranted;

(2) Instructions for destroying contaminated or substandard medical cannabidiol as provided in subrule 154.23(2) when remixing and retesting are not warranted; and

(3) Instructions for determining the source of contamination;

~~*e.*~~ *f.* Retain documentation of test results, assessment, and destruction of medical cannabidiol for at least five years.

154.26(4) *Stability testing.*

a. The quality assurance program shall include procedures for performing stability testing of each product type produced to determine product ~~shelf life~~ expiration dates. The procedures shall describe:

(1) Sample size and test intervals based on statistical criteria for each attribute examined to ensure valid stability estimates;

(2) Storage conditions for samples retained for testing; and

(3) Reliable and specific test methods.

b. Stability studies shall include:

(1) Medical cannabidiol testing at appropriate intervals; and

(2) Medical cannabidiol testing in the same container-closure system in which the medical cannabidiol is marketed and dispensed.

c. If ~~shelf-life~~ product-expiration-date studies have not been completed before December 1, 2018, a manufacturer shall assign a tentative product expiration date, not to exceed one year, based on any available stability information. A manufacturer shall concurrently conduct stability studies to determine the actual product expiration date.

d. After a manufacturer verifies the tentative product expiration date, or determines the appropriate product expiration date, a manufacturer shall include that product expiration date on each lot of medical cannabidiol.

e. Stability testing shall be repeated if the manufacturing process or the product's chemical composition is changed.

ITEM 7. Reserve rules **641—154.66** to **641—154.69**.

ITEM 8. Adopt the following **new** heading to precede rule 641—154.70(124E):

LABORATORY TESTING

ITEM 9. Adopt the following **new** rules 641—154.70(124E) to 641—154.76(124E):

641—154.70(124E) Requirements of a laboratory.

154.70(1) *Minimum testing requirements.* A laboratory shall establish and implement test methods and corresponding standard operating procedures for the analyses of cannabinoids, residual solvents and processing chemicals, pesticides, microbiological impurities, and metals.

154.70(2) *Additional tests upon request.* A laboratory shall establish and implement test methods and corresponding standard operating procedures for other analyses as requested by the department.

154.70(3) *Level of quantitation.* A laboratory shall be able to demonstrate that its LOQ is below any action level established by the department.

154.70(4) *Inventory tracking.*

a. A laboratory shall use the department's secure sales and inventory tracking system, if available, or a manifest system to record the receipt of medical cannabis goods from a manufacturer for testing.

b. A laboratory shall use the department's secure sales and inventory tracking system, if available, or a manifest system to record the return of medical cannabis goods or waste to a manufacturer.

154.70(5) *Hazardous waste disposal.*

a. A laboratory shall discard hazardous waste, including hazardous waste containing medical cannabis goods, in accordance with federal and state hazardous waste laws.

b. A laboratory shall document the waste disposal procedures followed for each sample.

641—154.71(124E) Requirements of a manufacturer.

154.71(1) *Assuming costs.* A manufacturer shall assume the costs for all laboratory testing requested by the department or laboratory for medical cannabis goods produced by the manufacturer.

154.71(2) *Sample waste retrieval.* A manufacturer shall retrieve analyzed samples and waste containing medical cannabis goods from the laboratory at a duration and frequency approved by the department.

641—154.72(124E) Content testing.

154.72(1) *Cannabinoids.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall, at minimum, test for and report measurements for the following cannabinoid analytes:

(1) THC;
(2) THCA;
(3) CBD;
(4) CBDA;
(5) CBG; and
(6) CBN.

b. A laboratory shall report that the primary sample passed THC potency testing if the detected concentration of THC does not exceed 3 percent by weight in milligrams per milliliter (mg/ml) for liquids and milligrams per gram (mg/g) for solids and if the detected concentration of THC does not vary from the manufacturer's labeled concentration by more or less than 15 percent by weight in mg/ml for liquids and mg/g for solids. Thus, a solid product labeled as containing a concentration of THC of 10 mg/g shall have a detected concentration of THC that is no more than 11.50 mg/g and no less than 8.50 mg/g.

c. A laboratory shall report that the primary sample failed THC potency testing if the detected concentration of THC exceeds 3 percent by weight in mg/ml for liquids and mg/g for solids or if the detected concentration of THC varies from the labeled concentration of THC by more or less than 15 percent by weight in mg/ml for liquids and mg/g for solids.

d. A laboratory shall report that the primary sample passed CBD potency testing if the detected concentration of CBD does not vary from the manufacturer's labeled concentration by more or less than 15 percent by weight in mg/ml for liquids and mg/g for solids. Thus, a solid product labeled as containing a concentration of CBD of 10 mg/g shall have a detected concentration of CBD that is no more than 11.50 mg/g and no less than 8.50 mg/g.

e. A laboratory shall report that the primary sample failed potency testing if the detected concentration of CBD varies from the labeled concentration of CBD by more or less than 15 percent by weight in mg/ml for liquids and mg/g for solids.

f. For each cannabinoid analyte test, a laboratory shall issue a certificate of analysis that contains the following:

(1) Concentrations of cannabinoid analytes in mg/ml for liquids and mg/g for solids, or other measures approved by the department.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(1)*"b"* and 154.72(1)*"c."*

g. The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

154.72(2) *Contaminants—residual solvents and processing chemicals.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall analyze primary samples for residual solvents and processing chemicals.

b. The department shall provide a list of residual solvents and processing chemicals for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each residual solvent or processing chemical for which a primary sample is tested, a laboratory shall report that the primary sample passed the testing if the concentration of residual solvent or processing chemical is at or below the action level approved by the department.

d. For each residual solvent or processing chemical for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of residual solvent or processing chemical is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for residual solvents and processing chemicals and the laboratory determines that a primary sample contains residual solvent or processing chemical analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the residual solvent or processing chemical analytes.

f. The laboratory may test for and provide test results for additional residual solvents or processing chemicals if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each residual solvent or processing chemical for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any target residual solvent or processing chemical that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(2)*"c"* and 154.72(2)*"d."*

(3) The names and amounts of any additional residual solvents and processing chemicals identified by the laboratory.

h. If the primary sample fails testing for residual solvents and processing chemicals, the lot fails laboratory testing.

i. When a laboratory identifies additional residual solvents and processing chemicals in a primary sample, the laboratory shall:

(1) Notify the department of the additional residual solvents and processing chemicals and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(3) *Contaminants—pesticides.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for pesticides.

b. The department shall provide a list of pesticides for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each pesticide for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of pesticide is at or below the action level approved by the department.

d. For each pesticide for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of pesticide is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for pesticides and the laboratory determines that a primary sample contains pesticide analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the pesticide analytes.

f. The laboratory may test for and provide test results for additional pesticides if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each pesticide for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any pesticide that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(3)*"c"* and 154.72(3)*"d."*

(3) The names and amounts of any additional pesticides identified by the laboratory.

h. If the primary sample fails testing for pesticides, the lot fails laboratory testing.

i. When a laboratory identifies additional pesticides in a primary sample, the laboratory shall:

(1) Notify the department of the additional pesticides and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(4) *Contaminants—metals.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for metals.

b. The department shall provide a list of metals for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each metal for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of metal is at or below the action level approved by the department.

d. For each metal for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of metal is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for metals and the laboratory determines that a primary sample contains metal analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the metal analytes.

f. The laboratory may test for and provide test results for additional metals if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each metal for which the primary sample was tested.

1. The concentrations shall be listed in micrograms per gram or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any metal that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(4)*"c"* and 154.72(4)*"d."*

(3) The names and amounts of any additional metals identified by the laboratory.

h. If the primary sample fails testing for metals, the lot fails laboratory testing.

i. When a laboratory identifies additional metals in a primary sample, the laboratory shall:

(1) Notify the department of the additional metals and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(5) *Contaminants—microbiological impurities.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for microbiological impurities.

b. The department shall provide a list of microbiological impurities for which primary samples are to be tested on the department's website (www.idph.iowa.gov).

c. For each microbiological impurity for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the microbiological impurity is not detected in 1 gram of matrix or as approved by the department. A primary sample may be reported as passed if a screening procedure yields a negative result or if a presumptively positive result is not found to be positive on the confirmatory procedure.

d. For each microbiological impurity for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the microbiological impurity is detected in 1 gram of matrix or as approved by the department. Confirmatory procedures shall be conducted on all presumptively positive results.

e. If a laboratory is using methods to test primary samples for microbiological impurities and the laboratory determines that a primary sample contains microbiological impurities that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification of the biological impurity.

f. The laboratory may test for and provide test results for additional microbiological impurities if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name of each microbiological impurity for which the primary sample was tested.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(5)*"c"* and 154.72(5)*"d."*

(3) The names of any additional microbiological impurities identified by the laboratory.

h. If the primary sample fails testing for microbiological impurities, the lot fails laboratory testing.

i. When a laboratory identifies additional microbiological impurities in a primary sample, the laboratory shall:

(1) Notify the department of the additional microbiological impurities detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(6) *Additional tests.* The laboratory may perform additional tests if asked to do so by a requester.

641—154.73(124E) Reporting requirements.

154.73(1) *Reporting test results.* The laboratory shall generate a certificate of analysis for each primary sample that it tests and make the certificate of analysis available to the manufacturer who ordered the tests and the department through the department's secure sales and inventory tracking system, if available, or another laboratory information management system.

154.73(2) *Tentatively identified analytes.* A laboratory shall report on the certificate of analysis any tentatively identified analytes detected during the analysis of the primary sample. When a laboratory identifies additional analytes in a primary sample, the laboratory shall:

a. Notify the department of the additional analytes detected.

b. Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.73(3) *Additional reporting requirements.*

a. In addition to the requirements described in rule 641—154.72(124E), the certificate of analysis shall contain, at a minimum, the following information:

(1) All requirements of Standard ISO/IEC 17025;

(2) Date of primary sample collection;

(3) Date the primary sample was received by the laboratory;

(4) Date of each analysis;

(5) The LOQ and action level for each analyte, as applicable;

(6) Whether the primary sample and lot passed or failed laboratory testing; and

(7) A signature by the laboratory quality officer and the date the certificate of analysis was validated as being accurate by the laboratory quality officer.

b. Any test result that is not covered under the laboratory's ISO/IEC 17025 scope of accreditation shall be clearly identified on the certificate of analysis.

c. Measurements below a method's limit of detection shall be reported as "<" (less than) or "not detected" and reference the reportable limit. The reporting of zero concentration is not permitted.

d. Measurements ≥ LOD but < LOQ shall be reported as "detected but not quantified."

e. The number of significant figures reported shall reflect the precision of the analysis.

641—154.74(124E) Record-keeping requirements.

154.74(1) *Data package.* A laboratory shall create a data package for each analytical batch of primary samples that the laboratory analyzes. The data package shall contain at minimum the following information:

a. The name and address of the laboratory that performed the analytical procedures;

b. The names, functions, and signatures (electronic or handwritten) of the laboratory personnel that performed the primary sample preparation, analyzed the primary samples, and reviewed and approved the data;

c. All primary sample and analytical batch quality control sample results;

d. Raw data for each primary sample analyzed;

e. Instrument raw data, if any was produced;

f. Instrument test method with parameters;

g. Instrument tune report, if one was created;

h. All instrument standard calibration data;

i. Test-method worksheets or forms used for primary sample identification, characterization, and calculations, including chromatograms, sample-preparation worksheets, and final datasheets;

j. The quality control report with worksheets, forms, or copies of laboratory notebook pages containing pertinent information related to the identification and traceability of all reagents, reference materials, and standards used for analysis;

k. The analytical batch sample sequence;

l. The field sample log; and

m. The chain-of-custody form.

154.74(2) *Review of data package.* After the laboratory has compiled a data package, another individual at the laboratory shall independently review the data package. The reviewer shall:

a. Assess the analytical results for technical correctness and completeness;

b. Verify that the results of each analysis carried out by the laboratory are reported accurately, clearly, unambiguously, and objectively;

c. Verify that the measurements can be traced back; and

d. Approve the measurement results by signing and dating the data package prior to release of the certificate of analysis by the laboratory.

154.74(3) *Data package record retention.* The entire data package shall be stored by a laboratory for a minimum of five years and shall be made available upon request by the department or the requester of the laboratory testing.

154.74(4) *Other records.* A laboratory shall maintain all documents, forms, records, and standard operating procedures associated with the testing of medical cannabis goods.

a. A laboratory shall maintain analytical testing laboratory records in such a manner that the analyst, the date the analysis was performed, the approver of the certificate of analysis, the reviewer and approver of the data package, the test method, and the materials that were used can be determined by the department.

b. Records shall be stored in such a way that the data may be readily retrieved when requested by the department.

c. All testing laboratory records shall be kept for a minimum of five years, unless otherwise noted in these rules.

d. The department shall be allowed access to all electronic data, including standards records, calibration records, extraction logs, and laboratory notebooks.

e. A laboratory shall keep and make available to the department the following records related to the testing of medical cannabis goods:

(1) Personnel qualification, training, and competency documentation, including but not limited to résumés, training records, continuing education records, analytical proficiency testing records, and demonstration of competency records for laboratory work. These records shall be kept current.

(2) Method verification and validation records, including method modification records, method detection limit and quantitation limit determination records, ongoing verification records such as proficiency test records and reference material analysis records.

(3) Quality control and quality assurance records, including the laboratory's quality assurance manual and control charts with control limits.

(4) Chain-of-custody records, including chain-of-custody forms, field sample logs, sample-receipt records, sample-description records, sample-rejection records, laboratory information management system records, sample-storage records, sample-retention records, and disposal records.

(5) Purchasing and supply records, equipment-services records, and other equipment records, including purchase requisition records, packing slips, supplier records, and certificates of analysis.

(6) Laboratory equipment installation records, maintenance records, and calibration records. These records shall include the date and name of the person performing the installation of, calibration of, or maintenance on the equipment, with a description of the work performed, maintenance logs, pipette calibration records, balance calibration records, working and reference mass calibration records, and daily verification-of-calibration records.

(7) Customer service records, including customer contracts, customer requests, certificates of analysis, customer transactions, customer feedback, records related to the handling of complaints and nonconformities, and corrective action pertaining to complaints.

(8) Nonconforming work and corrective action records, including corrective action, nonconformance, nonconformities resolved by correction, customer notification of nonconformities, internal investigations, implementation of corrective action, and resumption-of-work records.

(9) Internal-audit and external-audit records, including audit checklists, standard operating procedures, and audit observation and findings reports. These records shall include the date and name of the person performing the audit.

(10) Management review records, including technical data review reports and final management-review reports. These records shall include the review date and the name of the reviewer.

(11) Laboratory data reports, data review, and data approval records, including instrument and equipment identification records, records with unique sample identifiers, analysts' laboratory notebooks and logbooks, traceability records, test-method worksheets and forms, instrumentation-calibration data, and test-method raw data. These records shall include the analysis date and the name of the analyst.

(12) Proficiency testing records, including the proficiency test schedule, proficiency tests, data-review records, data-reporting records, nonconforming work and corrective actions, and quality control and quality assurance records related to proficiency testing.

(13) Electronic data, backed-up data, records regarding the protection of data, including unprocessed instrument output data files and processed quantitation output files, electronic data protocols and records, and authorized personnel records.

(14) Security data, including laboratory-security records and laboratory-access records, surveillance-equipment records, and security-equipment records. These records shall be stored for at least one year.

(15) Traceability, raw data, standards records, calibration records, extraction logs, reference materials records, analysts' laboratory notebooks and logbooks, supplier records, and certificates of analysis, and all other data-related records.

(16) Laboratory contamination and cleaning records, including autoclave records, acid-wash logs and records, and general laboratory-safety and chemical-hygiene protocols.

641—154.75(124E) Quality control. The laboratory shall have quality control protocols that include the following elements:

154.75(1) *Quality control samples required.*

a. The laboratory shall run quality control samples with every analytical batch of samples for chemical and microbiological analysis.

b. For microbiological analysis, the laboratory shall develop procedures for quality control requirements for each analytical batch of samples.

c. The laboratory shall analyze the quality control samples in exactly the same manner as the test samples to validate the laboratory testing results.

154.75(2) *Types of quality control samples.* At a minimum, a laboratory shall have the following quality control samples as part of every analytical batch tested for chemical analytes:

a. Negative control (method blank). A laboratory shall prepare and run at least one method blank sample with an analytical batch of 10 to 20 samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch, to demonstrate that the analytical process did not introduce contamination.

b. Positive control (laboratory control sample). A laboratory shall prepare and run at least one laboratory control sample with an analytical batch of 10 to 20 samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch.

c. Matrix spike sample. A laboratory shall prepare and run one or more matrix spike samples for each analytical batch.

(1) A laboratory shall calculate the percent recovery for quantitative chemical analysis by dividing the sample result by the expected result and multiplying that by 100. All quality control measures

shall be assessed and evaluated on an ongoing basis, and quality control acceptance criteria shall be used. When necessary, the department may establish acceptance criteria on the department's website (www.idph.iowa.gov).

(2) If quality control acceptance criteria are not acceptable, a laboratory shall investigate the cause, correct the problem, and rerun the analytical batch of samples. If the problem persists, the laboratory shall reprepare the samples and run the analysis again, if possible.

d. Field duplicate sample. A laboratory shall prepare and run a duplicate sample with every 10 to 20 samples for each analytical method. The acceptance criterion between the primary sample and the duplicate sample is less than 20 percent relative percentage difference.

154.75(3) *Certified reference material for chemical analysis.* The laboratory shall use a reference material for each analytical batch in accordance with the following standards:

a. The reference material should be certified and obtained from an outside source, if possible. If a reference material is not available from an outside source, the laboratory shall make its own in-house reference material.

b. Reference material made in-house should be made from a different source of standards than the source from which the calibration standards are made.

c. The test result for the reference material shall fall within the quality control acceptance criteria. If it does not, the laboratory shall document and correct the problem and run the analytical batch again.

154.75(4) *Calibration standards.* The laboratory shall prepare calibration standards by serially diluting a standard solution to produce working standards used for calibration of an instrument and quantitation of analyses in samples.

154.75(5) *Quality control-sample report.* A laboratory shall generate a quality control-sample report that includes quality control parameters and measurements, analysis date, and type of matrix.

154.75(6) *Limit-of-detection and limit-of-quantitation calculations.* For chemical method analysis, a laboratory shall calculate the limit of detection and limit of quantitation using generally accepted methodology.

641—154.76(124E) Security requirements. The department may request assistance from the department of public safety in ensuring a laboratory meets the security requirements in this rule.

154.76(1) *Security policy requirement.* A laboratory shall maintain a security policy to prevent the loss, theft, or diversion of medical cannabis goods and samples. The security policy shall apply to all staff and visitors at a laboratory facility.

154.76(2) *Visitor logs.* Visitors to a laboratory facility shall sign visitor manifests with name, date, and times of entry and exit, and shall wear badges that are visible at all times and that identify them as visitors.

154.76(3) *Restricted access.* A laboratory shall use a controlled access system and written manifests to limit entrance to all restricted access areas of its laboratory facility and shall retain a record of all persons who entered the restricted access areas.

a. The controlled access system shall do all of the following:

(1) Limit access to authorized individuals;

(2) Maintain a log of individuals with approved access, including dates of approvals and revocations;

(3) Track times of personnel entry;

(4) Track times of personnel movement between restricted access areas;

(5) Store data for retrieval for a minimum of one year; and

(6) Remain operable in the event of a power failure.

b. Separate written manifests of visitors to restricted areas shall be kept and stored for a minimum of one year if the controlled access system does not include electronic records of visitors to the restricted areas.

c. A laboratory shall promptly, but no later than five business days after receipt of request, submit stored controlled access system data to the department.

154.76(4) *Personnel identification system.* A laboratory shall use a personnel identification system that controls and monitors individual employee access to restricted access areas within the laboratory facility and that meets the requirements of this subrule and subrule 154.76(2).

a. Requirement for employee identification card. An employee identification card shall contain:

(1) The name of the employee;

(2) The date of issuance;

(3) An alphanumeric identification number that is unique to the employee; and

(4) A photographic image of the employee.

b. A laboratory employee shall keep the identification card visible at all times when the employee is in the laboratory.

c. Upon termination or resignation of an employee, a laboratory shall immediately:

(1) Revoke the employee's access to the laboratory; and

(2) Obtain and destroy the employee's identification card, if possible.

154.76(5) *Video monitoring and surveillance.*

a. Video surveillance system. A laboratory shall operate and maintain in good working order a video surveillance system for its premises that operates 24 hours per day, seven days a week, and visually records all areas where medical cannabis goods are stored or tested.

b. Camera specifications. Cameras shall:

(1) Capture clear and certain identification of any person entering or exiting a restricted access area containing medical cannabis goods;

(2) Have the ability to produce a clear, color still photograph live or from a recording;

(3) Have on all recordings an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and

(4) Continue to operate during a power outage.

c. Video recording specifications.

(1) A video recording shall export still images in an industry standard image format, such as .jpg, .bmp, or .gif.

(2) Exported video shall be archived in a format that ensures authentication and guarantees that the recorded image has not been altered.

(3) Exported video shall also be saved in an industry standard file format that can be played on a standard computer operating system.

(4) All recordings shall be erased or destroyed at the end of the retention period and prior to disposal of any storage medium.

d. Additional requirements. A laboratory shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

e. Retention. A laboratory shall ensure that 24-hour recordings from all video cameras are:

(1) Available for viewing by the department upon request;

(2) Retained for a minimum of 60 days;

(3) Maintained free of alteration or corruption; and

(4) Retained longer, as needed, if a manufacturer is given actual notice of a pending criminal, civil, or administrative investigation, or other legal proceeding for which the recording may contain relevant information.

154.76(6) *Chain-of-custody policy and procedures.* A laboratory shall maintain a current chain-of-custody policy and procedures. The policy should ensure that:

a. Chain of custody is maintained for samples which may have probable forensic evidentiary value; and

b. Annual training is available for individuals who will be involved with testing medical cannabis goods.

154.76(7) *Information technology systems security.* A laboratory shall maintain information technology systems protection by employing comprehensive security controls that include security firewall protection, antivirus protection, network and desktop password protection, and security patch management procedures.

ARC 3700C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to federal motor carrier safety and hazardous materials regulations and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 307.27, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.188, 321.449, 321.450 and 327B.1.

Purpose and Summary

The proposed amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Safety Administration.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399.

Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The proposed amendments to Chapter 529 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 365 to 368 and 370 to 379 and update the responsible office name from the office of vehicle services to the office of vehicle and motor carrier services.

The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2017, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

TRANSPORTATION DEPARTMENT[761](cont'd)

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2017 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Parts 365, 370, 373, 374, 376, 377, 378, 383, 385, 390-392, 395, 397 and 398 (FR Vol. 81, No. 192, Pages 68336-68359, 10-04-16)

This final rule amends the Federal Motor Carrier Safety Administration's (FMCSA) regulations by making technical corrections throughout. The FMCSA is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update cross references, and improve clarity and consistency of certain regulatory provisions. Further, this set of amendments removes all remaining instances of the term "common carrier" and "contract carrier" as required by the Interstate Commerce Commission Termination Act and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This rule does not make any substantive changes to the affected regulations, except to remove obsolete provisions. Effective date: September 30, 2016.

Part 383 (FR Vol. 81, No. 198, Pages 70634-70646, 10-13-16)

This final rule amends FMCSA regulations to ease the transition of military personnel into civilian careers driving commercial motor vehicles (CMV) by simplifying the process of obtaining a commercial learner's permit (CLP) or commercial driver's license (CDL). This final rule extends the period of time for applying for a skills test waiver from 90 days to one year after leaving a military position requiring the operation of a commercial motor vehicle (CMV). This final rule also allows a state to accept applications from active duty military personnel who are stationed in that state as well as administer the written and skills tests for a CLP or CDL. States that choose to accept such applications are required to transmit the test results electronically to the state of domicile of the military personnel. The state of domicile may issue the CLP or CDL on the basis of those results. Effective date: December 12, 2016.

Parts 383 and 391 (FR Vol. 81, No. 233, Pages 87686-87731, 12-05-16)

This final rule amends the FMCSRs to establish requirements for the Commercial Driver's License Drug and Alcohol Clearinghouse, a database under the FMCSA that will contain information about violations of FMCSA's drug and alcohol testing program for the holders of CDLs. This rule is mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and will improve roadway safety by identifying CMV drivers who have committed drug and alcohol violations that render them ineligible to operate a CMV. Effective date: January 4, 2017. Compliance date: January 6, 2020.

Part 383 (FR Vol. 81, No. 236, Pages 88732-88803, 12-08-16)

This final rule amends FMCSA regulations to establish new minimum training standards for certain individuals applying for their CDL for the first time, an upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL), or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. These individuals are subject to the entry-level driver training requirements and must complete a prescribed program of instruction provided by an entity that is listed on FMCSA's Training Provider Registry. FMCSA will submit training certification information to the state driver licensing agency, which may only administer CDL skills tests to applicants for the Class A and B CDL, or the P or S endorsements, or knowledge test for the H endorsement, after verifying the certification information is present in the driver's record. Effective date: February 6, 2017. Revised effective date: June 5, 2017. Compliance date: February 7, 2020.

TRANSPORTATION DEPARTMENT[761](cont'd)

Parts 365, 366, 368, 385 and 390 (FR Vol. 82, No. 10, Pages 5292-5318, 01-17-17)

This final rule suspends FMCSRs requiring existing interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the FMCSA via a new electronic online Unified Registration System. During this suspension, entities needing to file will follow the same procedures and forms used to submit information to FMCSA as they do today. Effective date: January 14, 2017.

Parts 107, 171-173, 178 and 180 (FR Vol. 82, No. 60, Pages 15796-15897, 03-30-17)

This Pipeline and Hazardous Materials Safety Administration (PHMSA) final rule amends the HMR to maintain consistency with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, PHMSA is adopting several amendments to the HMR that result from coordination with Canada under the U.S.-Canada Regulatory Cooperation Council. Effective date: March 30, 2017, except for instruction 22 on page 15876, which is effective January 2, 2019. Voluntary compliance date: January 1, 2017. Delayed compliance date: Unless otherwise specified, January 1, 2018.

Part 390 (FR Vol. 82, No. 115, Pages 27765-27767, 06-16-17)

This final rule extends by one year the compliance date of FMCSA regulations established in the final rule on lease and interchange of passenger-carrying CMVs published on May 27, 2015, and effective on July 27, 2015. The new compliance date is January 1, 2019. The FMCSA received numerous petitions for reconsideration of the final rule and extended the original January 1, 2017, compliance date to January 1, 2018, to provide time to address the issues raised by the petitioners. As a result of a public meeting with representatives of the passenger carrier industry in October 2016 and further analysis of the petitions for reconsideration, the FMCSA is extending the compliance date by an additional 12 months to allow time to revise the regulations, while ensuring that carriers have ample time to adjust to the requirements of the revisions. Effective date: June 16, 2017, until January 1, 2019. Compliance date: The compliance date for the requirements in Subpart F to 49 CFR Part 390 (Sections 390.301, 390.303, and 390.305) is extended until January 1, 2019.

Fiscal Impact

The fiscal impact cannot be determined. The federal regulations to be adopted by this action were subject to fiscal impact review by either the FMCSA or the PHMSA when enacted and were determined not to be cost-prohibitive.

Jobs Impact

The proposed amendments may have a slight impact on motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the regulations adopted align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the Nation's highways.

Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

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 17, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
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 19, 2018	Department of Transportation
10 a.m.	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 meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **520.1(1)"a"** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2016~~ 2017).

ITEM 2. Amend paragraph **520.1(1)"b"** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2016~~ 2017).

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2016~~ 2017, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at http://www.fmcsa.dot.gov.

ITEM 4. Amend rule 761—529.2(327B) as follows:

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

ITEM 5. Amend paragraph **607.10(1)"c"** as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2016~~ 2017):

(1) Section 383.51, Disqualification of drivers.
(2) Subpart E—Testing and Licensing Procedures.
(3) Subpart G—Required Knowledge and Skills.
(4) Subpart H—Tests.

ARC 3697C

TRANSPORTATION DEPARTMENT[761]

Notice of Termination

Terminating rule making related to sanctions

The Department of Transportation hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3601C**, proposing to amend Chapter 615, "Sanctions," Iowa Administrative Code.

Legal Authority for Rule Making

The above-mentioned rule making is terminated under the authority provided in Iowa Code sections 307.12, 307A.2, 321.180B, 321.189, 321.193, 321.201, 321.208, 321.210, 321.210A, 321.210D, 321.213B, 321.513, 321.560 and 321A.2.

Purpose and Summary

The amendments proposed in the Notice of Intended Action formed a comprehensive update of the Department's rules affecting driver's license sanctions to better implement and align with existing legal authority and Department practice, including eliminating outdated or irrelevant requirements or options and standardizing and streamlining processes and procedures.

Reason for Termination

The Department is working to revise the proposed amendments and plans to submit a new Notice of Intended Action that incorporates changes based on concerns expressed by some members of the Administrative Rules Review Committee at its meeting held on February 9, 2018.

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](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).

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 Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for March is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective March 9, 2018, 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 .15%
180-364 days	Minimum .25%
One year to 397 days	Minimum .40%
More than 397 days	Minimum .70%

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, 2017 — April 30, 2017	4.50%
May 1, 2017 — May 31, 2017	4.50%
June 1, 2017 — June 30, 2017	4.25%
July 1, 2017 — July 31, 2017	4.25%
August 1, 2017 — August 31, 2017	4.25%
September 1, 2017 — September 30, 2017	4.25%
October 1, 2017 — October 31, 2017	4.25%
November 1, 2017 — November 30, 2017	4.25%
December 1, 2017 — December 31, 2017	4.25%
January 1, 2018 — January 31, 2018	4.25%
February 1, 2018 — February 28, 2018	4.50%
March 1, 2018 — March 31, 2018	4.50%
April 1, 2018 — April 30, 2018	4.50%

ARC 3712C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

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

The Director of the Department of Workforce Development hereby proposes to amend Chapter 24, "Claims and Benefits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

These revisions to certain administrative rules will give the Department updated rules in response to previously made 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.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Waivers

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

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 17, 2018. Comments should be directed to:

David Steen, Attorney
Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@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 subrule 24.1(21) as follows:

24.1(21) *Benefit year, individual.* The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is the Sunday of the current week in which the claimant first files a valid claim ~~unless the claim is backdated as allowed under paragraph 24.2(1)*"h."*~~.

ITEM 2. Amend subparagraph **24.2(1)"g"(1)** as follows:

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and~~, unless reasonable cause can be shown for the delay,~~ not later than close of business on the Friday following the weekly reporting period.

ITEM 3. Amend subparagraph **24.2(1)"g"(3)** as follows:

(3) The individual shall set forth the following:

1. That the individual continues the claim for benefits;
2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;
3. That the individual indicates the number of employers contacted for work, the contact information for each employer contacted, and the result of the contact;

4. That the individual knows the law provides penalties for false statements in connection with the claim;

5. That the individual has reported any job offer received during the period covered by the claim;

6. That the individual understands the individual's responsibility to review the individual's claim records to ensure there is no delay in filing the individual's weekly claim to remain in continuous reporting status. Failure to file claims each week will require a claimant to submit a claim application to reactivate the claim;

~~6.~~ 7. Other information required by the department.

ITEM 4. Amend subparagraph **24.2(1)"h"(2)** as follows:

(2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim ~~for the following reasons:~~

~~1. The failure of the department to recognize the expiration of the claimant's previous benefit year;~~

~~2. The~~ if the claimant filed an interstate claim against another state which has been determined as ineligible.

ITEM 5. Amend paragraph **24.13(3)"c"** as follows:

c. Wages in lieu of notice, separation allowance, ~~severance pay~~ and dismissal pay.

ITEM 6. Adopt the following **new** paragraph **24.13(3)"f"**:

f. Severance pay. Severance pay is any payment based solely on the years of service and is not conditioned on the individual giving up any legal right or the release of any rights.

ITEM 7. Adopt the following **new** subparagraph **24.37(1)"d"(4)**:

(4) The effective date of an interstate claim shall be the Sunday of the week the claim was filed, except if proof is obtained from another state that the claimant filed in that state and it was determined that the claim should have been filed in Iowa.

ARC 3713C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Rule making related to department organization

The Department on Aging hereby amends Chapter 2, "Department on Aging," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 231.14 and 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.22.

Purpose and Summary

This amendment changes the divisions of the Department on Aging. There was new legislation passed on the federal level related to the Office of the State Long-Term Care Ombudsman. On a monitoring visit, the Administration for Community Living noted that the organization of the Iowa Department on Aging was inconsistent with 45 CFR § 1324.11(c). This amendment will put the Department in compliance with federal law. The Department also combined two divisions to reflect a cross-pollination of responsibilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3478C**. 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 March 1, 2018.

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 17—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018.

The following rule-making action is adopted:

Amend rule 17—2.5(231) as follows:

17—2.5(231) Organizational units of the department. The department's activities are performed by employees within the office of the director and ~~three~~ two divisions. Grants will be managed by the appropriate division, dependent upon the source and intended use of funds.

2.5(1) *Office of the director.* The office of the director may be comprised of the director, the assistant director, the state long-term care ombudsman, the policy coordinator, the public information officer, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) *Division of programs, planning, and administration.* The responsibilities of the division of programs, planning, and administration include the development and operation of home- and community-based programs, development of program and operational budgets, providing leadership and direction for the integration of policy development, ensuring that policies are consistent with department goals and results, and accounting and administrative control of appropriation expenditures.

~~**2.5(3)** *Division of policy and planning.* The responsibilities of the division of policy and planning include providing leadership and direction for the integration of policy development and ensuring that policies are consistent with department goals and results.~~

~~**2.5(4)** *Division of elder rights.* The responsibilities of the division of elder rights include development, administration, and operation of the program and budget for the office of the state long-term care ombudsman and other programs impacting elder rights.~~

2.5(3) *Office of the state long-term care ombudsman.* The responsibilities of the state long-term care ombudsman include development, administration, and operation of the program and allocated budget to provide advocacy for individuals residing in long-term care.

[Filed 3/6/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3714C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Rule making related to access to residents

The Department on Aging hereby amends Chapter 8, "Long-Term Care Ombudsman," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 231.42 and 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.45.

Purpose and Summary

This amendment changes the rule related to the Certified Volunteer Long-Term Care Ombudsman Program. New legislation was passed on the federal level related to the Office of the State Long-Term

Care Ombudsman. On a monitoring visit, the Administration for Community Living noted that the subrule regarding access to residents was inconsistent with 45 CFR § 1324.11(e)(2)(ii). This amendment will put the Department in compliance with federal law.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3479C**. 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 March 1, 2018.

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 17—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018.

The following rule-making action is adopted:

Rescind paragraph **8.6(10)"c."**

[Filed 3/6/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3699C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to meetings of the commission

The College Student Aid Commission hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261.

Purpose and Summary

This amendment limits the total number of in-person meetings that can be held annually, clarifies when special meetings may be held and clarifies how affirmative votes are recorded.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3516C**. No public comments were received. As a result of concerns expressed by the Administrative Rules Review Committee regarding the cost of operating Commission meetings, the Adopted and Filed rule making has been modified from the Notice of Intended Action to limit the total number of in-person board meetings that can be held annually.

Adoption of Rule Making

This rule making was adopted by the Commission on February 23, 2018.

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018.

The following rule-making action is adopted:

Amend subrule 1.2(3) as follows:

1.2(3) *Meetings.* The commission shall meet at regular intervals at least six times annually, but not more than eight times in person annually. The commission may hold additional regular meetings from time to time during the year as deemed necessary and with proper notice to the public. Additional meetings also may be called at the discretion of the chairperson.

a. The chairperson of the commission presides at each meeting. Members of the public may be recognized at the discretion of the chairperson. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

b. The commission shall give advance public notice of the time and place of each commission meeting. The notice will include the specific date, time, and place of the meeting.

c. A quorum shall consist of two-thirds of the voting members of the commission. When a quorum is present, a position is carried by an affirmative vote of the majority of commission members eligible to vote. A commissioner who is present at a meeting of the commission at which action on any matter is taken shall be presumed to have assented to the action taken unless the commissioner's dissent or abstention is recorded in the minutes of the meeting or unless, before adjournment of the meeting, the commissioner files written dissent to such action with the person who is acting as the secretary of the meeting. The right to dissent shall not apply to a commissioner who voted in favor of an action.

d. A specific time is set aside at each meeting for the public to address the commission. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the commission during this portion of the meeting are required to notify the commission's administrative secretary prior to the meeting. The person's name and the subject of the person's remarks must be provided. To accommodate maximum public participation, members of the public are encouraged to submit requests at least 72 hours in advance of the meeting.

[Filed 2/26/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3715C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to state supplementary assistance

The Department of Human Services hereby amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 14.

Purpose and Summary

These amendments implement the January 1, 2018, cost-of-living adjustments (COLA) to income limits and benefit amounts for several State Supplementary Assistance (SSA) categories. These amendments also implement the changed personal needs allowance for the residential care facility (RCF) assistance and family-life home (FLH) assistance. The net change to the personal needs allowance is a decrease due to a small COLA percentage increase that is offset by a larger decrease in the average monthly Medicaid copayments used to calculate the amount of this deduction.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3596C**. This rule making was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 3599C** on the same date. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

Fiscal Impact

The RCF and FLH personal needs allowances (PNAs) are decreasing by $1 per month from $100 per month to $99 per month. The base personal needs allowance is increased only slightly due to the 2 percent COLA this year. This increase was more than offset by the decrease in the average Medicaid copayment per client per month for RCF assistance recipients. (The average Medicaid copayment per client per month is added to the base PNA to determine the final monthly PNA.) The average copayment per client per month for RCF assistance recipients for August 2016 through July 2017 was $.90. This is a decrease of $2.89 from last year's average of $3.79. For FLH recipients, the $16 increase in the payment to the FLH is offset by the $1 decrease in the personal needs deduction and a $15 increase in the SSI payment. The recipient will pay up to $16 more due to the $15 increase in income and the $1 decrease in the PNA. For RCF assistance recipients, the maximum total payment to the facility increases up to $15.19 per month per recipient [(30.60 - 30.11) × 31 days]. RCF costs are shared by the state and the RCF recipient. Any potential increased costs to the state are expected to be more than offset by declining RCF caseloads in SFY 2018 and SFY 2019. For dependent-person assistance recipients, the maximum monthly payment is increasing by $8, from $379 to $387. Each dependent-person assistance recipient will receive up to an $8 increase, resulting in an anticipated increase in state expenditures.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) *Income.* Income of a dependent relative shall be less than ~~$379~~ $387 per month. When the dependent's income is from earnings, an exemption of $65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249), introductory paragraph, as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~$379~~ $387 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

ITEM 3. Amend subrule 52.1(1) as follows:

52.1(1) *Protective living arrangement.* The following assistance standards have been established for state supplementary assistance for persons living in a family-life home certified under rules in 441—Chapter 111.

~~$797~~ $813	Care allowance
~~$100~~ $ 99	Personal allowance
~~$897~~ $912	Total

ITEM 4. Amend subrule 52.1(2) as follows:

52.1(2) *Dependent relative.* The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative . . . . . ~~$1,114~~ $1,137
b. Aged or disabled client, eligible spouse, and a dependent relative . . . . . ~~$1,482~~ $1,512
c. Blind client and a dependent relative . . . . . ~~$1,136~~ $1,159
d. Blind client, aged or disabled spouse, and a dependent relative . . . . . ~~$1,504~~ $1,534
e. Blind client, blind spouse, and a dependent relative . . . . . ~~$1,526~~ $1,556

ITEM 5. Amend subrule 52.1(3) as follows:

52.1(3) *Residential care.* For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate of $17.86 or on a cost-related reimbursement system with a maximum per diem rate of $30.11. The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).

For periods of eligibility beginning July 1, 2017, ~~and thereafter,~~ payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of $30.11~~, but reimbursement~~. Reimbursement for recipients in non-privately operated residential care facilities will ~~continue to~~ be based on the flat per diem rate of $17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of $30.11.

For periods of eligibility beginning January 1, 2018, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of $30.60. Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate of $17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of $30.60.

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

(1) No change.

(2) An allowance of ~~$100~~ $99 to meet personal expenses and Medicaid copayment expenses.

(3) to (6) No change.
b. to *g.* No change.

[Filed 3/7/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3716C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to crisis response services

The Department of Human Services hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

These amendments further amend and clarify standards for crisis response services. Iowa Medicaid currently covers crisis response services; however, these amendments clarify that the daily upper limit for hourly crisis response and hourly crisis stabilization services is limited to the daily per diem for crisis stabilization services. These amendments also make a technical correction to the record requirements in a previously adopted rule.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3598C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

Fiscal Impact

The fiscal impact cannot be determined. Iowa Medicaid currently reimburses for crisis response services. These amendments are intended to provide the daily upper limit for hourly crisis response and hourly crisis stabilization services to ensure that the cost of hourly services does not exceed the cost of daily crisis stabilization services. There will be new Medicaid expenditures for crisis response services with the clarification of Medicaid participation and reimbursement. However, these services are expected to reduce the utilization of more costly inpatient services. Neither the cost of the crisis services nor the offsetting hospital savings are known with certainty. Therefore, the fiscal impact cannot be determined. Any potential impact will be limited to the availability and capacity of accredited providers. Neither the cost of the subacute services nor the offsetting hospital savings are known with certainty. Therefore, the fiscal impact cannot be determined. Any potential impact will be limited by the availability of beds.

There is currently one licensed subacute facility in the state, and only one application has been sent to the department for review. If approved, that facility will provide up to nine subacute beds.

Jobs Impact

There is an opportunity for more qualified mental health care professionals and peer support specialists to be employed by these service providers as the crisis response services expand and develop and as subacute mental health care facilities become licensed and enroll with Medicaid.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule **79.1(2)**, provider categories "Crisis response services" and "Crisis stabilization community-based services," as follows:

Provider category	Basis of reimbursement	Upper limit
Crisis response services	Fee schedule	Fee schedule in effect 2/1/18, not to exceed the daily per diem for crisis stabilization services.
Crisis stabilization community-based services	Fee schedule	Fee schedule in effect 2/1/18, not to exceed the daily per diem for crisis stabilization services.

ITEM 2. Amend subparagraph **79.3(2)"d"(44)** as follows:

(44) ~~Crisis response services, crisis stabilization community-based services and crisis stabilization residential services~~ Subacute mental health services.

1. Physician orders or court orders.
2. Independent assessment.
3. Individual treatment plan.
4. Service notes or narratives (history and physical, therapy records, discharge summary).
5. Medication administration records (residential services).

ITEM 3. Amend subparagraph **79.3(2)"d"(45)** as follows:

(45) ~~Subacute mental health services~~ Crisis response services, crisis stabilization community-based services and crisis stabilization residential services.

1. Assessment.
2. Individual stabilization plan.
3. Service notes or narratives (history and physical, therapy records, discharge summary).

4. Medication administration records (residential services).

[Filed 3/7/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3718C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to nurse aides

The Department of Human Services hereby amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4 and 2017 Iowa Acts, House File 306.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2017 Iowa Acts, House File 306.

Purpose and Summary

These adopted amendments add the use of online course curricula to meet the required minimum of 30 hours of classroom instruction and add a definition of "clock hour." The amendments also add a process to allow a veteran to be deemed to satisfy the nurse aide training requirements based upon the training and experience acquired through the veteran's service.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3594C**.

The Department received comments from three respondents during the public comment period. A summary of the comments and the Department's responses are as follows:

Comment 1: One respondent questioned the use of Iowa Code section 135C.14(2) as the legal authority for this rule making. Iowa Code section 135C.14 deals with the Department of Inspections and Appeals' adoption and enforcement of rules setting minimum standards for health care facilities. While subsection (2) deals with the number and qualifications of all personnel having responsibility for any part of the care provided to residents, the respondent contended the rule-making authority did not extend to the Department of Human Services.

Department response 1: While Iowa Code section 135C.14(2) relates to the subject matter of the rules, the Department agrees that 2017 Iowa Acts, House File 306, and Iowa Code section 249A.4 provide the explicit authority for the Department of Human Services to adopt these amendments. The citation for rule-making authority has been changed to reflect this fact.

Comment 2: One respondent questioned whether 2017 Iowa Acts, House File 306, and the amendment proposed in Item 2 of **ARC 3594C** were in conflict with the federal regulations (42 CFR 483.150) that detail the criteria for the certification of nurse aides. The respondent stated that because

any individual, including veterans, may currently seek to challenge the competency test, the amendment in Item 2 is not necessary to accomplish the intended result.

Department response 2: The Department does not believe that a change to the amendment in Item 2 based on the comment is necessary at this time. The Department's rule making is at the express direction of the Iowa General Assembly and is consistent with federal law and with the administrative rules of other states.

Comment 3: One respondent questioned the language in proposed subparagraph 81.16(3)"a"(7), stating that the Centers for Medicare and Medicaid Services (CMS) recently approved changes to where, as long as the program coordinator has the requisite long-term care experience, the instructors in the nurse aide program who are under the supervision of the program coordinator would not be required to have the one year of long-term care experience.

Department response 3: The Department reviewed the Department of Inspections and Appeals' Health Facilities Division website and found a clarification regarding nurse aide training program instructors. The clarification, which was posted on February 12, 2018, states:

"The Department has received clarification from the Centers for Medicare and Medicaid Services (CMS) related to the instructor qualifications for nurse aide training programs. CMS has agreed that as long as the training program coordinator has the requisite long-term care experience, the instructors in the nurse aide program who are under the supervision of the program coordinator would NOT be required to have the one year of long-term care experience. Hopefully this will help facilitate the hiring of qualified instructors for the nurse aide training programs."

The Department does not believe a change to subparagraph 81.16(3)"a"(7) is necessary based on this clarifying statement. The rules, as written, follow and comply with federal regulations found in 42 CFR 483.152(a)(5).

Comment 4: One respondent was concerned that the learning needs of the individuals may not be met. The respondent stated that online training does not work for all and students should be made aware up front, regardless of the training setting, that they have a choice of face-to-face or online training.

Department response 4: The Department does not believe a change to the rules based on the comment is necessary at this time. The Department supports the need to provide a variety of training options for individuals and believes individuals will make the best choice in their learning methods.

Comment 5: One respondent expressed concern about the effectiveness of online training and commented that a plan or method should be in place to measure its effectiveness. The respondent stated that information regarding online training should be gathered and evaluated to determine the effect of online training on job turnover and whether the nurse aide students feel adequately prepared to do what is expected.

Department response 5: The Department does not believe a change to the rules based on the comment is necessary at this time. While the Department concedes that online training for nurse aides is relatively new, measuring the effectiveness of the training is outside the Department's authority. The Department supports continued discussions on this issue with community stakeholders.

Comment 6: One respondent disagreed with the provided definition of "clock hour." The respondent believes that the definition should include more than a set number of 60 minutes. The respondent also stated that the definition should be more expansive and include a definition that allows "clock hour" to include classroom instruction, prior equivalent experience, or both. The respondent stated that a broad definition of "clock hour" would allow nurse aide applicants to receive credit for the prior experience they received through different training programs or applicable experience to count as credit toward their hours of training to meet the competency evaluation program requirements.

Department response 6: The rules, as written, follow and comply with federal regulations found in 42 CFR 483.152 relating to the minimum requirements for approval of a nurse training and competency evaluation program. The Department does not have authority to deem or waive the requirements of the 75 clock hours of training to include classroom instruction, prior experience, or both. The rules do allow for veterans to provide documentation showing that the person has 75 clock hours of practical experience in a nurse aide role, which may include classroom instruction, prior equivalent experience, or a combination of the two. The Department does not believe a change to the rules based on the comment is necessary at this time.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

Fiscal Impact

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

Jobs Impact

There is an impact on private sector jobs and employment opportunities. By allowing online training and by deeming that veterans have satisfied requirements based on their military training and experience, this rule making will increase the direct care worker workforce. With the increase in workforce, nursing facilities will be able to hire more staff to provide care to their residents and nursing facility staff are less likely to have to work shorthanded.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 2, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Clock hour" in rule **441—81.1(249A)**:

"Clock hour" means 60 minutes.

ITEM 2. Rescind subrule 81.16(1) and adopt the following **new** subrule in lieu thereof:

81.16(1) *Deemed meeting of requirements.* A nurse aide is deemed to satisfy the requirement of completing a nurse aide training and competency evaluation approved by the department of inspections and appeals if:

a. The nurse aide successfully completed a nurse aide training and competency evaluation program before July 1, 1989, and

(1) At least 60 clock hours were substituted for 75 clock hours, and the person has made up at least the difference in the number of clock hours in the program the person completed and 75 clock hours in supervised practical nurse aide training or in regular in-service nurse aide education, or

(2) The person was found to be competent (whether or not by the state) after completion of a nurse aide training of at least 100 clock hours' duration, or

(3) The person can demonstrate that the person served as a nurse aide at one or more facilities of the same employer in Iowa for at least 24 consecutive months before December 19, 1989, or

(4) The person completed, before July 1, 1989, a nurse aide training and competency evaluation program that the department of inspections and appeals determines would have met the requirements for approval at the time it was offered; or

b. The person is a veteran, an active duty service member, or a member of the reserve forces, who has:

(1) Successfully completed a U.S. military training program that includes a curriculum comparable to the nurse aide training program required by this rule and has documented successful completion of that program with either a diploma, certifications, or Form DD 214 showing completion of hospital corpsman or medical service specialist or equivalent training, and

(2) Provided documentation showing that the person has 75 clock hours of practical experience in a nurse aide role, which may include classroom instruction, prior equivalent experience, or a combination of the two, and

(3) Successfully completed the nurse aide training and competency examination.

ITEM 3. Amend subrule 81.16(3) as follows:

81.16(3) *Requirements for approval of a nurse aide training and competency evaluation program.* The department has designated the department of inspections and appeals to approve required nurse aide training and ~~testing~~ competency evaluation programs. Policies and procedures governing approval of the programs are set forth in these rules.

a. For a nurse aide training and competency evaluation program to be approved ~~by the department of inspections and appeals, it~~, such program shall, at a minimum:

(1) Consist of no less than 75 clock hours of training~~.~~, and

(2) Include at least the subjects specified in ~~81.16(3).~~ 81.16(3)*"b,"* and

(3) Include at least ~~15 hours of laboratory experience,~~ 30 hours of didactic theory instruction, which may be provided in a classroom ~~instruction (the first 16 hours of which must occur before the nurse aide has resident contact) and 30 hours of supervised clinical training. Supervised clinical training means training in a setting in which the trainee demonstrates knowledge while performing tasks on a resident under the general supervision of a registered nurse or licensed practical nurse.~~ setting or through online course curricula, and

(4) ~~Ensure that students do not independently perform any services for which they have not been trained and found proficient by the instructor. It shall also ensure that students who are providing services to residents are under the general supervision of a licensed nurse or a registered nurse.~~ Include at least 15 hours of laboratory experience provided in a face-to-face environment that complements the didactic theory curricula, and

(5) ~~Meet the following requirements for instructors who train nurse aides:~~ Include 30 hours of supervised clinical training in a face-to-face environment and supervised by a department of inspections and appeals-approved instructor in a manner not inconsistent with the licensing requirements of the Iowa board of nursing, and

~~1. The training of nurse aides shall be performed by or under the general supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which shall be in the provision of long-term care facility services.~~

~~2. Instructors shall be registered nurses and shall have completed a course in teaching adults or have experience teaching adults or supervising nurse aides.~~

~~3. In a facility-based program, when the director of nursing is a registered nurse, the training of nurse aides may be performed under the general supervision of the director of nursing for the facility. The director of nursing is prohibited from performing the actual training.~~

~~4. Other personnel from the health professions may supplement the instructor. Supplemental personnel shall have at least one year of experience in their fields.~~

~~5. The ratio of qualified trainers to students shall not exceed one instructor for every ten students in the clinical setting.~~

(6) ~~Contain information regarding competency evaluation through written or oral and skills testing.~~ Ensure that students do not independently perform any services for which they have not been trained and found proficient by the department of inspections and appeals-approved instructor, and

(7) Meet the following requirements for department of inspections and appeals-approved instructors who train nurse aides:

1. The training of nurse aides shall be performed by or under the general supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which shall be in the provision of long-term care facility services.

2. Instructors shall be registered nurses and shall have completed a course in teaching adults or have experience teaching adults or supervising nurse aides.

3. In a facility-based program, when the director of nursing is a registered nurse, the training of nurse aides may be performed by registered nurses under the general supervision of the director of nursing for the facility. The director of nursing is prohibited from performing the actual training.

4. Other personnel from the health professions may supplement the instructor. Supplemental personnel shall have at least one year of experience in their fields.

5. The ratio of department of inspections and appeals-approved instructors to students shall not exceed one registered nurse, or licensed practical nurse functioning as an assistant to a registered nurse, who is in the proximate area in the clinical setting, for every ten students in the clinical setting, and

(8) Contain information regarding competency evaluation through written or oral examination and skills demonstration.

b. No change.

c. Prohibition of charges.

(1) ~~No~~ A nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide training and competency evaluation program or competency evaluation program may not be charged for any portion of the program including any fees for textbooks, ~~or other required evaluation or~~ course materials, or nurse aide competency evaluations.

(2) If a person who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility ~~not~~ no later than 12 months after completing a nurse aide training and competency evaluation program or competency evaluation program, the facility shall reimburse the nurse aide for costs incurred in completing the program or competency evaluation on a pro rata basis during the period in which the person is employed as a nurse aide. The formula for paying the nurse aides on a pro rata basis shall be as follows:

1. Add all costs incurred by the ~~aides~~ nurse aide for the course, books, and ~~tests~~ competency evaluations.

2. Divide the total arrived at in ~~No. 1~~ paragraph "1" above by 12 to prorate the costs over a one-year period and establish a monthly rate.

3. The nurse aide shall be reimbursed the monthly rate each month the nurse aide works at the facility until one year from the time the nurse aide completed the course.

d. and *e.* No change.

[Filed 3/7/18, effective 5/2/18]
[Published 3/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3717C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to civil money penalty fund

The Department of Human Services hereby amends Chapter 81, "Nursing Facilities," and rescinds Chapter 166, "Quality Improvement Initiative Grants," Iowa Administrative Code, and adopts a new Chapter 166 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.57.

Purpose and Summary

These amendments align administrative rules with federal regulations regarding the use of civil money penalties (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). These amendments also update the Department's process in how and when the Department requests applications for grant proposals. These amendments remove the evaluation and scoring criteria from administrative rules as this information will be incorporated in the formal request for application and will allow flexibility to update departmentwide processes without having to change administrative rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3573C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

Fiscal Impact

There are no costs associated with this rule making. A change in the criteria and process for awarding these grants could potentially change which entities qualify, but funding is already set aside in the civil money penalty fund and at no time shall the grant set-aside cause the civil money penalty fund to drop below $1 million.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

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 July 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—81.1(249A)**, definition of "Facility," as follows:

"Facility" means a licensed nursing facility certified in accordance with the provisions of 42 CFR ~~Part 483,~~ 483.5 as amended to ~~September 23, 1992~~ December 4, 2017, to provide health services and includes hospital-based nursing facilities that are Medicare-certified and provide only skilled level of care and swing-bed hospitals unless stated otherwise.

ITEM 2. Amend rule 441—81.53(249A) as follows:

441—81.53(249A) Use of penalties collected by the department. Civil money penalties collected by the department shall be applied to the protection of the health or property of residents of facilities that the department of inspections and appeals finds deficient. Funds may be used for:

1. ~~Payment for the cost~~ Time-limited expenses incurred in the process of relocating residents to home- and community-based settings or other facilities when a facility is closed or downsized pursuant to an agreement with the department;
2. Recovery of state costs related to the operation of a facility pending correction of deficiencies or closure;
3. ~~Reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or by individuals used by the facility to provide services to residents; and~~ Support and protection of residents of a facility that closes;
4. Funding of projects to improve the quality of life ~~or~~ and quality of care of nursing facility residents through quality improvement initiative grants awarded pursuant to 441—Chapter 166~~.~~;
5. Projects that support resident and family councils and other consumer involvement in ensuring quality care in facilities; and
6. Reasonable expenses incurred by the department to administer, monitor, or evaluate the effectiveness of grants utilizing civil money penalty funds.

ITEM 3. Rescind 441—Chapter 166 and adopt the following **new** chapter in lieu thereof:

CHAPTER 166
QUALITY IMPROVEMENT INITIATIVE GRANTS

PREAMBLE

These rules define and structure grants to be funded from collected civil money penalties. The grant funds are available for activities that protect or improve the quality of care and quality of life for residents of a nursing facility.

441—166.1(249A) Definitions.

"Eligible entities" means nursing facilities, state agencies, nursing facility advocacy groups, resident and family councils, and other nursing facility stakeholder groups.

"Nursing facility" means a Medicaid-enrolled facility that is defined in rule 441—81.1(249A) as "facility."

"Quality improvement initiative" or *"initiative"* means a project or training in accordance with provisions of 42 CFR 488.433 as amended to December 4, 2017, that directly or indirectly supports and benefits the quality of care and quality of life of nursing facility residents.

441—166.2(249A) Availability of grants. The department shall set aside an annual amount from the civil money penalty fund established pursuant to Iowa Code section 249A.57 to be awarded in the form of grants to eligible entities for approved quality improvement initiatives. At no time shall the grant set-aside cause the civil money penalty fund to drop below $1 million.

166.2(1) In any calendar year in which sufficient funds are available in the civil money penalty fund to support quality improvement initiative grants, the department may issue a notice for applications for grants.

166.2(2) There is no entitlement to any funds available for grants awarded pursuant to this chapter. The department may award grants to the extent funds are available and, within its discretion, to the extent that applications are approved.

166.2(3) The allocation of funds shall be in compliance with state and federal law and approved by the Centers for Medicare and Medicaid Services (CMS).

441—166.3(249A) Grant eligibility. Grants are available only for quality improvement initiatives that are outside the scope of normal operations for the nursing facility or other applicants. Grants cannot be used as replacement funding for goods or services that the applicant already offers.

166.3(1) Grants may be awarded for:

a. Short-term quality improvement initiatives (three years or less), and

b. Initiatives with a longer term that involve collaborative efforts of state government and various stakeholders.

166.3(2) The department will comply with CMS guidance on civil money penalty uses.

441—166.4(249A) Grant application process and selection of proposals. The department will announce through a request for proposals the opening of an application period. The request will state the purpose for which grant funds may be sought. Applicants shall submit their grant proposals by the deadline specified in the announcement.

166.4(1) Evaluation of proposals. All proposals completed as directed and submitted within the time frames allowed will be evaluated by the grant review committee to determine which applicants' project plans will be submitted for CMS approval.

166.4(2) The department will submit the project plan for each grant the department intends to award, along with any required documentation, to CMS to seek approval or denial of the proposed project. All activities and plans for utilizing civil money penalty funds must be approved in advance by CMS.

441—166.5(249A) Project contracts. Grants for approved applicant project plans will be awarded through a contract entered into by the department and the applicant. The contract period shall not exceed the time frames allowed by state and federal laws. The department will reimburse expenditures pursuant to contract terms and the regular reimbursement procedures of the state of Iowa.

These rules are intended to implement Iowa Code section 249A.57.

[Filed 3/7/18, effective 7/1/18]
[Published 3/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3719C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to child support

The Department of Human Services hereby amends Chapter 95, "Collections," and Chapter 99, "Support Establishment and Adjustment Services," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 252B and 252H.

Purpose and Summary

These amendments conform rule 441—95.14(252B) to the federal regulations, which became effective January 19, 2017, of the Department of Health and Human Services, Administration for Children and Families. Specifically, these amendments conform the rules to 45 CFR 303.11, Case Closure Criteria. The Child Support Recovery Unit (CSRU) has implemented many of the federal regulations in administrative rules over the years. The revised federal regulations update language that is also in some of those rules and add new permissive case closure reasons.

These amendments also update Chapter 99, Divisions IV and V, by removing references to voluntary reduction of income as a factor when CSRU modifies child support obligations.

In 2013, the Iowa Supreme Court revised Chapter 9, "Child Support Guidelines," of the Iowa Court Rules to require a written determination to impute income. Iowa Court Rule 9.11(4) allows the court to make a written finding of voluntary unemployment or underemployment and to impute income to a party if the court finds that a substantial injustice would occur to use actual earnings. When CSRU uses income based on a party's voluntary reduction of income in administrative actions, essentially CSRU includes imputed income in the child support calculations without the required written findings by the court. Iowa Court Rule 9.11(4) does not give CSRU authority to impute income when a party is voluntarily unemployed or underemployed. Only the court has that authority.

The current CSRU practice of not using the actual income of those who are voluntarily unemployed or underemployed does not take into account that a party's unemployment or underemployment may be for justifiable reasons that have nothing to do with an attempt to reduce the child support obligation. In addition, federal regulations released in December 2016 (specifically 45 CFR 302.56 and accompanying comments found at 81 Fed. Reg. 93492) include guidance for states on using the actual income of parties, which does not appear to align with the existing CSRU voluntary reduction in income rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3595C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

Fiscal Impact

These amendments will not substantially change the number of actions CSRU completes. There are no system changes needed to implement the changes, and CSRU will not need to increase or decrease staff to complete the actions.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

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 July 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind rule 441—95.14(252B) and adopt the following **new** rule in lieu thereof:

441—95.14(252B) Termination of services.

95.14(1) *Case closure criteria.*

a. The child support recovery unit may terminate services when the case meets at least one of the following case closure criteria and the child support recovery unit maintains supporting documentation for the case closure decision in the record:

(1) There is no ongoing support obligation, and arrearages are under $500 or unenforceable under state law.

(2) The noncustodial parent or alleged father is deceased, and no further action, including a levy against the estate, can be taken.

(3) The noncustodial parent is living with the minor child as the primary caregiver, the custodial parent is deceased, and there is no assignment to the state of support or of arrearages that accrued under the support order.

(4) The child support recovery unit cannot establish paternity because:

1. The child is at least 18 years old and the statute of limitations bars an action to establish paternity;

2. A genetic test or a court or administrative process has excluded the alleged father and no other alleged father can be identified;

3. The child support recovery unit has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or rape or a case in which legal proceedings for adoption are pending; or

4. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the child support recovery unit with the recipient of services.

(5) The noncustodial parent's location is unknown and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, all of which have been unsuccessful, within the applicable time frame:

1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

(6) The child support recovery unit has determined that, throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no evidence of support potential because the parent has been institutionalized in a psychiatric

facility, is incarcerated, or has a medically verified total and permanent disability. The child support recovery unit must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

(7) The noncustodial parent's sole income is from supplemental security income (SSI) payments.

(8) The noncustodial parent is a citizen of and lives in a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and there is no federal or state treaty or reciprocity with the country.

(9) In a case involving child support services to a person who is not a recipient of public assistance, the child support recovery unit has provided location-only services.

(10) The child support recovery unit has received a written or verbal request from the recipient of services to close the case, and there is no assignment to the state of support or of arrearages that accrued under the support order.

(11) In a case involving child support services to a recipient of public assistance, there has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.22(8) through 41.22(12) and 441—subrule 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(12) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, the child support recovery unit has received information that the address in the unit's record is no longer current and the unit is unable to contact or otherwise locate the recipient within 60 days following receipt of this information, despite a good-faith effort to contact the recipient through at least two different methods.

(13) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, the recipient of services has failed to cooperate with the child support recovery unit, which documented the circumstances of the noncooperation, and an action by the recipient of services is essential for the next step in providing services. (See rule 441—95.19(252B).)

(14) The child support recovery unit documents failure by the initiating agency, as defined under 45 CFR 301.1, to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR 301.1, has notified the child support recovery unit that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR 301.1, has notified the child support recovery unit that its intergovernmental services are no longer needed.

(17) Another assistance program, including IV-A, IV-E, SNAP, and Medicaid, has referred to the child support recovery unit a case for which it is inappropriate to establish, enforce, or continue to enforce a child support order and the custodial or noncustodial parent has not applied for child support services.

(18) The case meets any other basis for case closure based upon federal law.

b. The child support recovery unit may terminate services when no support or arrearages that accrued under the support order are assigned to the state and the recipient of services requested the child support recovery unit to close the case to allow the tribal IV-D agency to start providing services under that program.

c. The child support recovery unit must close a case and maintain supporting documentation for the case closure decision when the following criteria have been met:

(1) The child support recovery unit is notified that the child is eligible for health care services from the Indian Health Service (IHS); and

1. The IV-D case was opened because of a Medicaid referral based solely upon health care services, including the Purchased/Referred Care Program, provided through an Indian health program (as defined at 25 U.S.C. 1603(12)); and

2. The recipient of services requested the child support recovery unit to close the case.

(2) The child support recovery unit receives instructions for case closure from an initiating agency, as defined under 45 CFR 301.1. Within ten working days, the child support recovery unit must stop the income withholding order or notice and close the intergovernmental IV-D case.

95.14(2) *Case closure notifications.* In cases meeting one of the criteria of 95.14(1), except 95.14(1)*"a"*(9), (10), or (11), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR 301.1, in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR 301.1, supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. If the case is to be closed because the child support recovery unit was unable to contact the recipient of services as provided in subparagraph 95.14(1)*"a"*(12), the case shall be kept open if contact is reestablished with the recipient of services before the effective date of the closure.

c. The recipient of services may request to have the child support recovery unit reopen the case at a later date if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application and paying any applicable fee.

d. For notices under this subrule, if the recipient of services specifically authorizes consent for electronic notifications, the child support recovery unit may elect to notify the recipient of services electronically of the child support recovery unit's intent to close the case. The child support recovery unit must maintain documentation of the recipient's consent in the case record.

This rule is intended to implement Iowa Code sections 252B.4, 252B.5, and 252B.6.

ITEM 2. Amend subrule 99.65(1) as follows:

99.65(1) *Conducting the review.* The child support recovery unit or its attorney shall review the case for administrative adjustment of a child support obligation unless it is determined that any of the following exist:

a. The location of one or both of the parents is unknown.

b. The variation from the Iowa Supreme Court mandatory child support guidelines is based on any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

~~*c.* The variation from the Iowa Supreme Court mandatory child support guidelines is due to a voluntary reduction in net monthly income attributable to the actions of the parent. The unit may request and the parent shall supply verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.~~

~~*d.*~~ *c.* The criteria of rule 441—99.62(252B,252H) are not met.

~~*e.*~~ *d.* The end date of the order is less than 12 months in the future or the youngest child is 17½ years of age.

ITEM 3. Rescind rule 441—99.87(252H) and adopt the following **new** rule in lieu thereof:

441—99.87(252H) Misrepresentation of fact.

99.87(1) The unit shall not modify the support order based on a substantial change of circumstances if a change in income is due to any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

99.87(2) The unit may request verification that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

ITEM 4. Amend subrule 99.91(5) as follows:

99.91(5) *Change of circumstances.* The request is based on a substantial change in circumstances and:

a. to *d.* No change.

~~*e.* The change in income is a voluntary reduction attributable to the actions of the party, as explained in rule 441—99.87(252H), or~~

~~*f.*~~ *e.* The change in income is due to material misrepresentation of fact, as explained in rule 441—99.87(252H).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3720C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to promoting opportunities for parents program

The Department of Human Services hereby rescinds Chapter 100, "Child Support Parental Obligation Pilot Projects," and adopts a new Chapter 100, "Child Support Promoting Opportunities for Parents Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 252B.3(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.3(5).

Purpose and Summary

This rule making replaces the current Child Support Parental Obligation Pilot Projects rules by renaming the program and clarifying incentives.

The new chapter describes the Promoting Opportunities for Parents Program (POPP) developed by the Department of Human Services Child Support Recovery Unit (CSRU). The purpose of this program is to assist parents in overcoming the barriers which interfere with fulfilling their obligations to their children.

CSRU wants to partner with community providers and resources to assist parents in overcoming barriers. Research shows that child support-led programs are more likely to yield results for noncustodial parents and their children. Thus, the child support program sets the expectations and manages the program by partnering with employment and fatherhood/parenting programs to provide those services.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3597C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 7, 2018.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Fiscal Impact

This is an existing program, and the rule making will not change the level of funding needed.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

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 July 1, 2018.

The following rule-making action is adopted:

Rescind 441—Chapter 100 and adopt the following **new** chapter in lieu thereof:

CHAPTER 100
CHILD SUPPORT PROMOTING OPPORTUNITIES FOR PARENTS PROGRAM

PREAMBLE

This chapter describes the promoting opportunities for parents program developed by the department of human services child support recovery unit (CSRU). The purpose of this program is to assist parents in overcoming the barriers which interfere with fulfilling their obligations to their children. For the purpose of these rules, promoting opportunities includes emotional and personal involvement of the parents, parenting or fatherhood classes and employment resources beyond simply meeting the parents' financial obligations. In order to encourage participation by parents, CSRU may partner with community providers and resources and may offer various incentives for participation. These incentives may be offered through projects whose plans have been approved by the bureau chief or through projects in which CSRU participates and for which the bureau chief approves of CSRU's offering any or all of the incentives.

441—100.1(252B) Definitions.

"Assigned support arrearages" means support arrearages for which all rights have been and shall remain assigned to the state of Iowa.

"Bureau chief" means the chief of the bureau of collections of the department of human services or the bureau chief's designee.

"Child support recovery unit (CSRU)" means any person, unit, or other agency which is charged with responsibility for providing or assisting in the provision of child support enforcement services pursuant to Title IV-D of the Social Security Act.

"Designated provider" means any project approved in whole or in part by CSRU and approved by the bureau chief to assist parents in overcoming the barriers which interfere with their fulfilling obligations to their children. Each project shall have a project plan approved by the bureau chief.

"Incentives" means, but is not limited to, satisfaction of support obligations and bypass of select enforcement tools such as license sanction, administrative levy, and contempt.

"Participant" means a person who receives services or incentives through a project.

"Periodic support payment" means the total support payment due in each time period in accordance with the established support obligation. If no current support is due, the periodic support payment is equivalent to the last current support amount as would be ordered under 441—Chapter 98, Division II.

"Project plan" means the written policies, procedures, eligibility criteria and other components, as described at subrule 100.3(2).

441—100.2(252B) Incentives. CSRU may offer incentives to participants through designated providers to encourage participants' completion of the project. The available incentives include, but are not limited to, the following:

100.2(1) *Satisfaction of the assigned support arrearages.*

a. A participant shall be granted a partial satisfaction of the assigned support arrearages which are and which will remain owed by that participant to the state after that participant's successful completion of the project and payment of that participant's periodic support payments. Satisfactions granted under this subrule shall apply only to those cases for which periodic support payment is credited.

b. Each satisfaction shall be an amount equal to a percentage of that participant's support arrearages, which are and which will remain owed to the state, according to the following schedule:

(1) A one-time satisfaction after 6 consecutive months from the participant's completion of the project. The amount of satisfaction shall be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 50 percent of the amount owed to the state.
2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.
3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 30 percent of the amount owed to the state.
4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.
5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 10 percent of the amount owed to the state.
6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

(2) A one-time satisfaction after 12 consecutive months from the participant's completion of the project. The amount of satisfaction shall be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 100 percent of the amount owed to the state.
2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 80 percent of the amount owed to the state.
3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 60 percent of the amount owed to the state.
4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.
5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.
6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

c. A participant subject to an income withholding order shall be eligible for the satisfaction in this subrule if the sole reason for ineligibility is a disparity between the schedules of the participant's pay date and the scheduled date the payment is due.

d. A participant shall be eligible for a satisfaction under this subrule if the participant is no longer a participant but has continued to pay the participant's periodic support payment without interruption.

100.2(2) *Enforcement processes.* CSRU may bypass select enforcement tools, including but not limited to license sanction, administrative levy, and contempt, if the participant is actively in the project.

441—100.3(252B) Establishment of designated providers. CSRU may initiate a request for project plans to become designated providers.

100.3(1) *Contents of a request for project plans.* The request for project plans shall contain the requirements for contents of the project plan and any other parameter for the specific project being advertised. The request shall also contain a deadline by which project plans must be submitted to the bureau chief.

100.3(2) *Contents of project plans.* Each project shall have and maintain a project plan. At a minimum, the project plan shall contain or address the following:

a. The applicant's experience and success at integrating collaborations and services essential to the project.

b. The geographic area to be served and community need for projected services.

c. The projected number of participants to be served and the criteria to be used for the selection and termination of participants.

d. The specific parenting curriculum to be used. The curriculum must be well-established, have a track record of use and be field-tested.

e. A description of the components of the curriculum. The components of the curriculum should include personal development, responsible parenting, parenting skills, financial responsibilities, communication skills, and domestic violence prevention.

f. The schedule, location, hours of instruction and format for administering the curriculum.

g. A description of the organization and identification of staff responsible for delivering the curriculum. The staff should have experience in group facilitation and be certified trainers in the curriculum.

h. A clear explanation of how the curriculum and services will be monitored and evaluated, including how the participants will be tracked and what data will be collected.

i. Project duration.

100.3(3) *Amendments to project plan.* Projects may submit proposed amendments to their project plan in writing to the bureau chief. The bureau chief shall have the option, after review, of approving or disapproving all proposed amendments to the project plan.

441—100.4(252B) Selection of designated providers. The bureau chief shall have sole authority to select designated providers. The bureau chief shall select which of the project plans received on or before the deadline date shall be granted the status of designated providers. The selection of designated providers shall be based upon the content of the project plan including, but not limited to, the following criteria:

1. Applicant's experience.
2. Geographic area selected and community need for the project.
3. Participants to be served and criteria to be used to select participants and terminate their participation.
4. The parenting curriculum to be used.
5. A description of the components of the curriculum.
6. The schedule, location, hours of instruction and format for administering the curriculum.
7. A description of the organization and identification of staff.
8. An explanation of monitoring and evaluation.
9. Project duration.

441—100.5(252B) Termination of designated providers. The bureau chief may immediately terminate CSRU's participation with a designated provider if the designated provider is not fulfilling the terms of its project plan or the designated provider is not fulfilling the terms for CSRU's participation in the project plan.

441—100.6(252B) Reports and records.

100.6(1) *Reports.* Designated providers established under these rules shall report to CSRU at least monthly, unless otherwise required by the project plan. These reports shall include, but not be limited to, the following:

a. Attendance documentation with the names of participants served.

b. Signed voluntary consent of participants seeking incentives.

c. Certification of participants completing the curriculum.

d. Other information as specified in the project plan.

100.6(2) *Records retention.* Designated providers shall retain all records as necessary to meet the requirements of these rules.

441—100.7(252B) Receipt of incentives. Participants receiving incentives under these rules may continue to receive the incentives after the termination of these rules or after they are no longer participants only under subrule 100.2(1). Subrule 100.2(1) shall apply to a participant or former participant for the full time period allowed in that subrule.

These rules are intended to implement Iowa Code section 252B.3(5).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3721C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to beryllium standards

The Labor Commissioner hereby amends 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 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 section 88.5 and 29 CFR 1953.5.

Purpose and Summary

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), published amendments to the general industry and construction standards concerning exposure to beryllium and beryllium compounds in January of 2017. The new standards are based on a finding that the previous exposure limits were too high to prevent occupational lung cancer and chronic beryllium disease.

Subsequently, federal OSHA published two notices delaying implementation of the new beryllium standards. In the summer of 2017, federal OSHA formally proposed to revoke a portion of the new beryllium standards concerning construction. Federal OSHA also provided notification that it would not enforce those portions of the beryllium standards that are subject to revocation.

The Labor Commissioner published a Notice of Intended Action to adopt the new beryllium standards on April 26, 2017, as **ARC 3029C**. No further action was taken on that Notice.

Pursuant to both federal and state law, the Iowa Labor Commissioner must conform with federal standards. These amendments will make Iowa's beryllium enforcement conform to federal beryllium enforcement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3593C**. No public comments were received. The effective date was changed from May 2, 2018, to May 11, 2018, in order to coincide with the federal effective date.

Adoption of Rule Making

This rule making was adopted by the Labor Commissioner on March 7, 2018.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, the Commissioner finds that jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

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 Division 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 May 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:
82 Fed. Reg. 2735 (January 9, 2017)

ITEM 2. Adopt the following **new** rule 875—26.2(88):

875—26.2(88) Beryllium exposure limits. Effective May 11, 2018, the eight-hour time-weighted average permissible exposure limit for beryllium is 0.2 micrograms per cubic liter, and the short-term exposure limit for beryllium is 2.0 micrograms per cubic meter over a 15-minute sampling period.

This rule is intended to implement Iowa Code section 88.5.

[Filed 3/7/18, effective 5/11/18]
[Published 3/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.

ARC 3722C

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Rule making related to trust accounts and seller property condition disclosure

The Real Estate Commission hereby amends Chapter 13, "Trust Accounts and Closings," and Chapter 14, "Seller Property Condition Disclosure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 543B.9 and 2017 Iowa Acts, House File 541.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

Purpose and Summary

The amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.46 and provides clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution. The amendments implement 2017 Iowa Acts, House File 541, sections 14 and 16, which require that the Commission adopt rules that define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically. The amendments are also a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2).

Chapter 13 describes the general requirements for real estate trust accounts and closings. The amendments to Chapter 13 provide clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution and provide for a general cleanup of the chapter. Chapter 14 describes the general requirements for the property condition disclosure form. The amendments to Chapter 14 define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically and provide for a general cleanup of the chapter.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3564C**. A public hearing was held on February 6, 2018. 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 Commission on March 1, 2018.

Fiscal Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no fiscal impact to the state.

Jobs Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs.

Waivers

These amendments are subject to waiver or variance pursuant to 193—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 May 2, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 193E—13.1(543B) as follows:

193E—13.1(543B) Trust account. All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson on behalf of the broker's client shall be deposited in a trust account maintained by the broker in an identified trust account, with the word "trust" in the name of the account, in a federally insured ~~bank, savings and loan association, savings bank, or credit union located in Iowa~~ depository institution and, for the purposes of this rule, may be referred to as the "depository."

13.1(1) All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and must be deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This shall include, but not be limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically provided for in the written agreement between the broker and the broker's principal.

a. All trust funds must be deposited into the broker's trust account by no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained.

b. Money belonging to others shall not be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

c. A broker shall not commingle personal funds in a trust account; provided, however, that not more than ~~$500~~ $1,000 of the broker's personal funds may be maintained in each separate account if (1)

such personal funds are separately accounted for and (2) such personal funds are intended to be used by the broker to pay for expenses directly related to maintaining the account.

The broker shall ensure that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46~~,~~ and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker shall deposit personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

d. Money held in the trust account, which becomes due and payable to the broker, shall be promptly withdrawn by the broker.

e. The broker shall not use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses shall not be disbursed directly from the trust account.

13.1(2) to **13.1(4)** No change.

13.1(5) A broker shall be required to open and maintain one or more trust accounts if the broker ~~receives or expects to receive trust funds~~ is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker shall file with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the commission to examine and audit the trust account. The form of consent shall be prescribed by and available from the commission~~,~~ and shall include the account names and number~~,~~ and the name and address of the depository.

a. If the broker ~~does~~ is not ~~expect to receive~~ in the practice of depositing trust funds in a trust account, the broker shall file an affidavit with the commission on a form prescribed by and available from the commission.

b. If trust funds are received by the broker after filing an affidavit, the broker must immediately open a trust account and file the appropriate Consent to Examine and Audit Trust Account form with the commission.

c. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate farm business operating account in the name of the owner or owners and used by either the farm owner or farm manager or agent to conduct business as a part of a written farm management agreement.

d. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate property management account in the name of the owner or owners and used by either the property owner or property manager or agent to conduct property management as a part of a written property management agreement.

13.1(6) to **13.1(14)** No change.

ITEM 2. Amend rule 193E—14.1(543B) as follows:

193E—14.1(543B) Property condition disclosure requirement. The requirements of this chapter shall apply to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, "transfer" means the transfer or conveyance of real estate by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, including rental or lease agreements which contain any option to purchase, if the property includes at least one but no more than four dwelling units unless the transfer is exempted by Iowa Code section 558A.1(4), and "agent" means an individual designated by a transferee to accept delivery of a disclosure statement from a transferor.

14.1(1) No change.

14.1(2) *Licensee responsibilities to seller.* At the time a licensee obtains a listing, the listing licensee shall obtain a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller shall deliver the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the seller's making a written offer to sell or the seller's accepting a written offer to buy.

b. The licensee representing a seller shall attempt to obtain the buyer's signature and date of signature on the statement and shall provide the seller and the buyer with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file. If the licensee is

unable to obtain the buyer's signature, the licensee shall obtain other documentation establishing delivery of the disclosure and maintain the written documentation in the transaction file.

c. If the transaction closes, the listing broker shall maintain the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement shall be delivered to the buyer(s) or the buyer's agent by ~~either~~ personal delivery, ~~or by~~ certified or registered mail, or electronic delivery. If there is more than one buyer, any one buyer or buyer's agent may accept delivery of the executed statement.

14.1(3) *Licensee responsibilities to buyer.* A licensee representing a buyer in a transfer shall notify the buyer of the seller's obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when required, the licensee shall notify the buyer that the buyer may revoke or withdraw the offer.

b. If a buyer elects to revoke or withdraw the offer, the licensee shall obtain a written revocation or withdrawal from the buyer and shall deliver the revocation or withdrawal to the seller within three days following personal delivery or five days following delivery of the disclosure by electronic delivery or mail to the buyer or the buyer's agent.

c. Following revocation or withdrawal of the offer, any earnest money deposit shall be promptly returned without liability pursuant to Iowa Code chapter 558A and rule 193E—13.4(543B).

14.1(4) and **14.1(5)** No change.

14.1(6) *Acknowledgment of receipt of disclosure statement by electronic means.* Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement required by Iowa Code chapter 558A shall not be deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt shall include return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee's agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee's agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message shall not be deemed acknowledgment of receipt for purposes of this rule.

~~**14.1(6)**~~ **14.1(7)** *Minimum disclosure statement contents for all transfers.* All property disclosure statements, whether or not a licensee assists in the transaction, shall contain at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as required by Iowa Code chapter 558A. This law requires certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) must complete this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable **(N/A)**;
4. Please provide information in good faith and make a reasonable effort to ascertain the required information. If the required information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** must be identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes [ ] No [ ]
2. Roof: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
3. Well and Pump: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
   Any known water tests? Yes [ ] No [ ]
   If yes, date of last report: ____/____/____
   and results: _____
4. Septic Tanks/Drain Fields: Any known problems? Yes [ ] No [ ]
   Location of tank: _____
   Date tank last cleaned: ____/____/____
5. Sewer System: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
6. Heating System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
7. Central Cooling System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
8. Plumbing System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
9. Electrical System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [ ] No [ ]
    If yes, date(s) of treatment: ____/____/____
    Any known structural damage? Yes [ ] No [ ]
    If yes, date(s) of repairs/replacement: ____/____/____
11. Asbestos: Any known to be present in the structure? Yes [ ] No [ ]
    If yes, explain: _____
12. Radon: Any known tests for the presence of radon gas? Yes [ ] No [ ]
    If yes, date of last report: ____/____/____
    and results: _____
13. Lead-Based Paint: Any known to be present in the structure? Yes [ ] No [ ]

14. Flood Plain: Do you know if the property is located in a flood plain? Yes [ ] No [ ]
    If yes, what is the flood plain designation? _____
15. Zoning: Do you know the zoning classification of the property? Yes [ ] No [ ]
    If yes, what is the zoning classification? _____
16. Covenants: Is the property subject to restrictive covenants? Yes [ ] No [ ]
    If yes, attach a copy or state where a true, current copy of the covenants can be obtained:
    _____
17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [ ] No [ ]
    Any known *"common areas"* such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [ ] No [ ]
18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [ ] No [ ]
19. Structural Damage: Any known structural damage? Yes [ ] No [ ]

You **MUST** explain any *"YES"* response(s) above. Use the back of this statement or additional sheets as necessary: _____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).
The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.
Seller(s) acknowledges requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:
Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.
Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer_____ Buyer_____
Date ____/____/____ Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

[Filed 3/6/18, effective 5/2/18]
[Published 3/28/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.