



# IOWA ADMINISTRATIVE BULLETIN

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## CONTENTS IN THIS ISSUE

Pages 2779 to 2850 include **ARC 7021C** to **ARC 7037C**

### AGENDA

Administrative rules review committee . . . . . 2757

### AGRICULTURE AND LAND STEWARDSHIP

#### DEPARTMENT[21]

Filed, Marketing—choose Iowa  
promotional program, value-added  
agricultural program, amendments to  
ch 52 **ARC 7037C** . . . . . 2792

### ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Regulatory Analysis, Retail alcohol  
licenses, amendments to chs 1, 4, 5, 8,  
17, 18 . . . . . 2762  
Filed, Trade practices, amendments to  
ch 16 **ARC 7028C** . . . . . 2794

### ALL AGENCIES

Agency identification numbers . . . . . 2760  
Citation of administrative rules . . . . . 2755  
Schedule for rule making . . . . . 2756

### DELAY

70-day delay, Natural Resource  
Commission[571] Furbearer hunting,  
trapping—season dates, 108.1 to 108.10 . . . . . 2851

### EDUCATION DEPARTMENT[281]

Notice, Students First Act—education  
savings accounts, ch 20 **ARC 7023C** . . . . . 2779  
Filed Emergency, Students First  
Act—education savings accounts,  
ch 20 **ARC 7024C** . . . . . 2788

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Filed, Health care facilities  
administration—five-year review  
of rules, 50.3(3)"f," 50.6 to 50.9, 50.11  
**ARC 7035C** . . . . . 2807  
Filed, Nursing facilities—five-year  
review of rules, physician assistants,  
amendments to ch 58 **ARC 7033C** . . . . . 2810  
Filed, Minimum physical standards for  
residential care facilities, ch 60 **ARC 7036C** . . . . . 2822  
Filed, Boarding homes—five-year review  
of rules, amendments to ch 66 **ARC 7034C** . . . . . 2831

### IOWA FINANCE AUTHORITY[265]

Filed, Disaster recovery housing  
assistance, ch 29 **ARC 7021C** . . . . . 2835

### NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

70-day delay, Furbearer hunting,  
trapping—season dates, 108.1 to 108.10 . . . . . 2851

### PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Filed, Controlled Substances Act  
registration—business locations, 10.4  
**ARC 7025C** . . . . . 2841  
Filed, Temporary designation of  
controlled substances; precursor  
substances, 10.39, 12.1(1) **ARC 7026C** . . . . . 2843  
Filed, Licensure by verification; veterans;  
spouses of veterans, 33.1, 33.3, 33.4  
**ARC 7027C** . . . . . 2844

**PROFESSIONAL LICENSURE DIVISION[645]**

**PUBLIC HEALTH DEPARTMENT[641]"umbrella"**

Filed, Funeral directors, funeral establishments, and cremation establishments—licensure, notarization, 101.2(3)"b," 101.6(3)  
**ARC 7022C** ..... 2847

**PUBLIC HEALTH DEPARTMENT[641]**

Filed, Licensure by verification; veterans; spouses of veterans, 131.3(6), 196.3  
**ARC 7032C** ..... 2848

**PUBLIC HEARINGS**

Summarized list ..... 2759

**TREASURER OF STATE**

Notice—Public funds interest rates ..... 2786

**USURY**

Notice ..... 2787

**VETERINARY MEDICINE BOARD[811]**

Notice, Licensure by verification, 6.6  
**ARC 7030C** ..... 2780

Notice, Auxiliary personnel—licensure by verification, 8.11 **ARC 7031C** ..... 2781

Notice, Military service and veteran reciprocity, ch 15 **ARC 7029C** ..... 2783

## PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048  
Telephone: 515.281.3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### CITATION of Administrative Rules

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

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

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

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

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

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

## Schedule for Rule Making 2023

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 9, 2023	June 28, 2023
1	Wednesday, June 21, 2023	July 12, 2023
2	Friday, July 7, 2023	July 26, 2023

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 13, 2023, at 10:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov). The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Five-year review of rules, amend chs 1, 4, 6, 41, 100, 118; rescind chs 20, 25, 26 Filed **ARC 7018C**..... 5/17/23

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Marketing—choose Iowa promotional program, value-added agricultural program, amendments to ch 52 Filed **ARC 7037C**..... 5/31/23

#### **ALCOHOLIC BEVERAGES DIVISION[185]**

COMMERCE DEPARTMENT[181]“umbrella”

Trade practices, amendments to ch 16 Filed **ARC 7028C**..... 5/31/23

#### **ECONOMIC DEVELOPMENT AUTHORITY[261]**

Review of rules, rescind chs 4, 27, 32, 34, 35, 37, 40, 41, 46, 70, 78, 79, 164 Notice **ARC 7020C**..... 5/17/23

#### **EDUCATION DEPARTMENT[281]**

Students First Act—education savings accounts, ch 20

Notice **ARC 7023C**, also Filed Emergency **ARC 7024C**..... 5/31/23

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

Health care facilities administration—five-year review of rules, 50.3(3)“f,” 50.6 to 50.9,

50.11 Filed **ARC 7035C**..... 5/31/23

Nursing facilities—five-year review of rules, physician assistants, amendments to ch 58

Filed **ARC 7033C**..... 5/31/23

Minimum physical standards for residential care facilities, ch 60 Filed **ARC 7036C**..... 5/31/23

Boarding homes—five-year review of rules, amendments to ch 66 Filed **ARC 7034C**..... 5/31/23

#### **IOWA FINANCE AUTHORITY[265]**

Disaster recovery housing assistance, ch 29 Filed **ARC 7021C**..... 5/31/23

#### **PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Controlled Substances Act registration—business locations, 10.4 Filed **ARC 7025C**..... 5/31/23

Temporary designation of controlled substances; precursor substances, 10.39, 12.1(1)

Filed **ARC 7026C**..... 5/31/23

Licensure by verification; veterans; spouses of veterans, 33.1, 33.3, 33.4 Filed **ARC 7027C**..... 5/31/23

#### **PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

COMMERCE DEPARTMENT[181]“umbrella”

Licensure by verification; veterans; spouses of veterans, 14.1, 14.3, 14.4 Filed **ARC 7016C**..... 5/17/23

#### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure by verification; veterans; spouses of veterans, 19.1, 20.1, 20.3 Filed **ARC 7013C**..... 5/17/23

Funeral directors, funeral establishments, and cremation establishments—licensure,

notarization, 101.2(3)“b,” 101.6(3) Filed **ARC 7022C**..... 5/31/23

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

Licensure by verification; veterans; spouses of veterans, 131.3(6), 196.3 Filed **ARC 7032C**..... 5/31/23

#### **REVENUE DEPARTMENT[701]**

Electric fuel excise tax, amend ch 260; renumber ch 262; adopt ch 262 Filed **ARC 7019C**..... 5/17/23

#### **UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Gathering lines—renewable natural gas facilities, 10.1(3), 10.19 Filed **ARC 7017C**..... 5/17/23

Electric transmission line companies, 11.6(1), 11.8(2), 11.10, 11.12(1) Filed **ARC 7014C**..... 5/17/23

#### **VETERINARY MEDICINE BOARD[811]**

Licensure by verification, 6.6 Notice **ARC 7030C**..... 5/31/23

Auxiliary personnel—licensure by verification, 8.11 Notice **ARC 7031C**..... 5/31/23

Military service and veteran reciprocity, ch 15 Notice **ARC 7029C** ..... 5/31/23

### **VOTER REGISTRATION COMMISSION[821]**

Five-year review of rules, 1.8(5)<sup>b</sup>, 2.14(2), 2.15(5), 2.16, 3.1 to 3.4, 7.2, 9.1

Notice of Termination **ARC 7015C** ..... 5/17/23

## **ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mike Klimesh  
Vice Chair  
Senate District 32

Representative Megan Jones  
Chair  
House District 6

Senator Nate Boulton  
Senate District 20

Representative Amy Nielsen  
House District 85

Senator Mike Bousselet  
Senate District 21

Representative Rick Olson  
House District 39

Senator Waylon Brown  
Senate District 30

Representative Mike Sexton  
House District 7

Senator Pam Jochum  
Senate District 36

Representative David Young  
House District 28

Jack Ewing  
**Administrative Code Editor**  
Capitol  
Des Moines, Iowa 50319  
Telephone: 515.281.6048  
Fax: 515.281.8451  
Email: [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov)

Nate Ristow  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone: 515.281.5211

**ALCOHOLIC BEVERAGES DIVISION[185]**

Retail alcohol licenses, amendments to chs 1, 4, 5, 8, 17, 18 IAB 5/31/23 <b>Regulatory Analysis</b>	1918 Hulsizer Rd. Ankeny, Iowa	June 20, 2023 9 to 10 a.m.
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**EDUCATION DEPARTMENT[281]**

Students First Act—education savings accounts, ch 20 IAB 5/31/23 <b>ARC 7023C</b> (See also <b>ARC 7024C</b> )	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: <a href="https://idoe.zoom.us/j/93664266923?pwd=RVlvc2wxWTR6Q1VsU0t4eWc0blpPQT09">IDOE.zoom.us/s/93664266923?pwd=RVlvc2wxWTR6Q1VsU0t4eWc0blpPQT09</a>	June 20, 2023 9 to 10 a.m.
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**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Iowa Hazard Mitigation Plan, 9.3 IAB 5/17/23 <b>Regulatory Analysis</b>	Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	June 7, 2023 10 a.m.
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**TRANSPORTATION DEPARTMENT[701]**

Special permits for operation and movement of vehicles and loads of excess size and weight, amendments to ch 511 IAB 5/17/23 <b>Regulatory Analysis</b>	First Floor Training Room Motor Vehicle Division 6320 SE Convenience Blvd. Ankeny, Iowa	June 6, 2023 10 to 10:30 a.m.
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The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGING, DEPARTMENT ON[17]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Soil Conservation and Water Quality Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
 OMBUDSMAN[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Bureau[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
     Interior Design Examining Board[193G]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 EARLY CHILDHOOD IOWA STATE BOARD[249]  
 ECONOMIC DEVELOPMENT AUTHORITY[261]  
   City Development Board[263]  
 IOWA FINANCE AUTHORITY[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 HUMAN RIGHTS DEPARTMENT[421]  
 HUMAN SERVICES DEPARTMENT[441]  
 INSPECTIONS AND APPEALS DEPARTMENT[481]  
   Employment Appeal Board[486]  
   Child Advocacy Board[489]  
   Racing and Gaming Commission[491]  
   State Public Defender[493]  
 IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]



IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code  
185—Chapters 1, 4, 5, 8, 17, and 18  
“Retail Alcohol Licenses”

Iowa Code section authorizing rulemaking: 123.10

State or federal law(s) implemented by the rulemaking: 2022 Iowa Acts, Senate File 2374

### Public Hearing

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

June 20, 2023  
9 to 10 a.m.

1918 SE Hulsizer Road  
Ankeny, Iowa

### Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Division no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Madelyn Cutler  
1918 SE Hulsizer Road  
Ankeny, Iowa 50021  
Phone: 515.724.2924  
Email: [rules@iowaabd.com](mailto:rules@iowaabd.com)

### Purpose and Summary

The proposed amendments to the Division’s rules are in response to 2022 Iowa Acts, Senate File 2374. The legislation revised alcoholic beverage license and permit classifications and fees, removed the additional privilege of Sunday sales, removed the \$5,000 bond requirement for wine direct shipper permittees that are not native wineries, and removed the 100,000-proof gallon production cap on native distilleries.

Additionally, this rulemaking aligns with current agency practices by updating the methods of payment accepted by class “E” retail alcohol licensees for alcoholic liquor, and also by promoting the Division’s electronic licensing system for license transfers, bond endorsement, and wine gallonage tax report filing requirements.

The proposed amendments also eliminate outdated, incompatible and redundant language instances, including where rule language is duplicative of statutory language. Other nonsubstantive clarifying amendments are also proposed.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There are no classes of persons that will bear the costs of the proposed rulemaking.

- Classes of persons that will benefit from the proposed rulemaking:

Retail alcohol licensees that have experienced a revised alcoholic beverages license/permit will benefit from the proposed rulemaking by having accurate license/permit classification information.

Licensees and permittees will now find updated agency practices for the use of the Division’s electronic licensing system for license transfers, bond endorsement, and wine gallonage tax report filing

requirements. Class “E” retail alcohol licensees will also find the updated methods of payment accepted by the Division for alcoholic liquor.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The proposed rulemaking has no quantitative impact.

- Qualitative description of impact:

Alcohol beverage license, permit, and certificate holders and other stakeholders will benefit from discerning rule language that is updated and compatible with 2022 Iowa Acts, Senate File 2374, to make it easier to do business in Iowa with accurate license and permit classification types.

Licensees and permittees will now find updated agency practices for the methods of payment accepted by class “E” retail alcohol licensees for alcoholic liquor and for the use of the Division’s electronic licensing system for license transfers, bond endorsement, and wine gallonage tax report filing requirements.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no implementation and enforcement costs borne by the agency. Agency technology systems have already been updated as a result of the enactment of 2022 Iowa Acts, Senate File 2374.

Rulemaking changes made to reflect current agency practices are already in effect and would require no additional costs.

- Anticipated effect on state revenues:

The proposed rulemaking has no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The proposed rulemaking has no additional cost or reduced benefit. The changes proposed in order to comply with 2022 Iowa Acts, Senate File 2374, have no impact to costs or benefits. The cost of inaction will only amount to incompatible and outdated language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The proposed rulemaking is not costly nor intrusive.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The proposed rulemaking to update language in order to comply with statutory requirements of 2022 Iowa Acts, Senate File 2374, was the only method considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

If the proposed rulemaking is not adopted, alcohol beverage license, permit, and certificate holders and other stakeholders will continue to be subject to outdated and incompatible rule language that contradicts the statutory authority of Iowa Code chapter 123.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking does not have a substantial impact on small business. The rulemaking does not establish compliance or reporting requirements relating to alcohol beverage license or permit classifications. The rulemaking does not establish design or operational standards.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule 185—1.2(123,17A) as follows:

**185—1.2(123,17A) Scope and rules.** Promulgated under Iowa Code chapters 17A and 123, these rules shall apply to all matters before the alcoholic beverages division. No rule shall in any way relieve a certificate of compliance holder, manufacturer, ~~micro-distiller~~ native distiller, vintner, brewer, wholesaler, alcohol carrier, wine direct shipper, ~~liquor-control~~ retail alcohol licensee or wine permittee or beer permittee, or an agent or employee thereof from any duty under the laws of this state.

This rule is intended to implement Iowa Code section 123.4.

ITEM 2. Amend **185—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 123.4, 123.5, 123.6, 123.9, 123.10, ~~123.21(10)~~, and 17A.3.

ITEM 3. Amend **185—Chapter 4**, title, as follows:

LIQUOR RETAIL ALCOHOL LICENSES—BEER PERMITS—WINE PERMITS

ITEM 4. Amend rule 185—4.1(123) as follows:

**185—4.1(123) Definitions.**

“*Act*” means the alcoholic beverage control Act.

“*Administrator*” means the chief administrative officer of the alcoholic beverages division or a designee.

“*Beverages*” as used in Iowa Code section ~~123.3(18)~~ 123.3(21) does not include ~~alcoholic liquor, wine, or beer as defined in Iowa Code sections 123.3(4), 123.3(5), 123.3(7), 123.3(19), 123.3(28), 123.3(30), 123.3(43) and 123.3(47)~~ any alcoholic beverage as defined in Iowa Code section 123.3(4).

“*Division*” means the alcoholic beverages division of the department of commerce.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

ITEM 5. Amend subparagraph **4.2(4)“b”(8)** as follows:

(8) A pattern or practice by the licensee, ~~or~~ permittee, or certificate of compliance holder of failing to report any change in the ownership or interest of the business pursuant to Iowa Code section 123.39(1)“b”(3).

ITEM 6. Amend rule 185—4.4(123) as follows:

**185—4.4(123) Licensed premises.** The following criteria must be met before a “place” (as used in Iowa Code section ~~123.3(25)~~ 123.3(29)) may be licensed as a “place susceptible of precise description satisfactory to the administrator.”

**4.4(1)** The “place” must be owned by or under the control of the prospective licensee, permittee, or certificate of compliance holder.

**4.4(2)** The “place” must be solely within the jurisdiction of one local approving authority.

**4.4(3)** The “place” must be described by a sketch of the “premises” as defined in Iowa Code section ~~123.3(25)~~ 123.3(29) and showing the boundaries of the proposed “place”; showing the locations of selling/serving areas within the confines of the “place”; showing all entrances and exits; and indicating the measurements of the “place” and distances between selling/serving areas.

**4.4(4)** The “place” must satisfy the health, safety, fire and seating requirements of the division, local authorities and the Iowa department of inspections and appeals.

**4.4(5)** Any other criteria as required by the administrator.

This rule is intended to implement Iowa Code sections ~~123.3(25)~~ 123.3(29) and 123.4.

ITEM 7. Amend rule 185—4.5(123) as follows:

**185—4.5(123) Mixed drinks or cocktails not for immediate consumption.** ~~An on-premises liquor control~~ A class “C,” class “D,” or class “F” retail alcohol licensee may mix, store, and allow the consumption of mixed drinks or cocktails which are not for immediate consumption for up to 72 hours, subject to the requirements and restrictions provided in 2012 Iowa Acts, House File 2465, section 22, Iowa Code section 123.49(2) “d” and this rule.

**4.5(1) Definitions.**

*“Immediate consumption.”* ~~For purposes of Iowa Code section 123.49(2) “d” as amended by 2012 Iowa Acts, House File 2465, section 22, and this rule, “immediate consumption” is defined as for the purposes of this rule, means the compounding and fulfillment of a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.~~

*“Mixed drink or cocktail.”* ~~A mixed drink or cocktail is a beverage composed in whole or in part of alcoholic liquors, combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings for the purposes of this rule, means an alcoholic beverage as defined in Iowa Code section 123.3(32).~~

**4.5(2) Location.** ~~Mixed drinks or cocktails which are not for immediate consumption shall be mixed, stored, and consumed on the liquor control retail alcohol licensed premises. Mixed drinks or cocktails shall not be removed from the licensed premises.~~

**4.5(3)** No change.

**4.5(4) Container.** A mixed drink or cocktail which is not for immediate consumption shall at all times be in a container compliant with applicable state and federal food safety statutes and regulations.

*a. to c.* No change.

*d.* An original package of alcoholic liquor as purchased from the division or an original package of wine shall not be used to mix, store, or dispense a mixed drink or cocktail, pursuant to Iowa Code section 123.49(2) “d” ~~as amended by 2012 Iowa Acts, House File 2465, section 22, and section 123.49(2) “e.” and “e.”~~

*e.* No change.

**4.5(5) to 4.5(7)** No change.

**4.5(8) Records.** A licensee shall maintain accurate and legible records for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

*a. and b.* No change.

*c.* Records shall be maintained on the licensed premises for a period of three years and shall be open to inspection pursuant to Iowa Code section ~~123.30(1)~~ 123.33.

**4.5(9) to 4.5(12)** No change.

This rule is intended to implement Iowa Code ~~subsection~~ section 123.49(2) ~~as amended by 2012 Iowa Acts, House File 2465, section 22.~~

ITEM 8. Amend rule 185—4.6(123) as follows:

**185—4.6(123) Filling and selling of beer in a container other than the original container.** ~~Class “B,” class “C,” and special class “C<sub>2</sub>” liquor control and class “E” retail alcohol licensees, class “B” and class “C” beer permittees, and the licensee’s or permittee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and~~

restrictions provided in Iowa Code section ~~123.131~~ as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section ~~123.132~~; 123.31A and this rule.

**4.6(1) to 4.6(3)** No change.

**4.6(4) Restrictions.**

*a. to f.* No change.

*g.* An original container shall only be opened on the premises of a class “C” beer permittee “B” or class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

*h.* ~~A class “C” beer permittee shall only fill a growler at the time of an in-person sale.~~

**4.6(5)** No change.

This rule is intended to implement Iowa Code sections ~~123.123, 123.131, and 123.132~~ section 123.31A.

ITEM 9. Amend rule 185—4.7(123) as follows:

**185—4.7(123) Improper conduct.**

**4.7(1) *Illegality on premises.*** ~~Illegality on premises.~~ No retail alcohol licensee, permittee, their or the licensee’s agent or employee, shall engage in any illegal occupation or illegal act on the licensed premise.

**4.7(2) *Cooperation with law enforcement officers.*** ~~Cooperation with law enforcement officers.~~ No retail alcohol licensee, permittee, their or the licensee’s agent or employee, shall refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer’s duties to enforce the provisions of the Act.

**4.7(3) *Illegal activities.*** ~~Illegal activities.~~ No retail alcohol licensee, permittee, their or the licensee’s agent or employee, shall knowingly allow in or upon the licensed premises any conduct as defined in Iowa Code sections 725.1, 725.2, 725.3, 728.2, 728.3 and 728.5.

**4.7(4) *Frequenting premises.*** ~~Frequenting premises.~~ No retail alcohol licensee, permittee, their or the licensee’s agent or employee, shall knowingly permit the licensed premises to be frequented by, or become the meeting place, hangout or rendezvous for known pimps, panhandlers or prostitutes, or those who are known to engage in the use, sale or distribution of narcotics, or in any other illegal occupation or business.

**4.7(5)** No change.

**4.7(6) *Open containers of alcoholic beverages.*** No retail alcohol licensee, permittee, its agents or employees or the licensee’s agent or employee, shall allow any filled, partially filled, or empty liquor glasses or liquor bottles, including miniature liquor bottles during the holiday season, to be taken off the licensed premises. However, unopened and opened containers and glasses of beer may be allowed to be taken off the licensed premises. A class “E” liquor control retail alcohol licensee, its agents or employees or the licensee’s agent or employee, shall not permit other liquor control licensees or consumers to remove partially filled, empty, open or unsealed containers of alcoholic liquor from the class “E” retail alcohol licensed premises.

**4.7(7) *Identifying markers.*** ~~Identifying markers.~~ A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor which does not bear identifying markers as prescribed by the administrator of ~~this~~ the division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from ~~this~~ the division.

**4.7(8)** ~~A licensee or permittee, or an agent or employee of a licensee or permittee, who sells, gives or otherwise supplies alcoholic liquor, wine or beer to a person 19 or 20 years old does not subject the license or permit to suspension or revocation. The division or the local authority shall not impose any administrative sanction, including license suspension or revocation, upon a licensee or permittee who is convicted of a violation of Iowa Code section 123.47A, nor shall administrative proceedings pursuant to Iowa Code chapter 17A and Iowa Code section 123.39 be commenced against a licensee or permittee for a violation of Iowa Code section 123.47A.~~

~~4.7(9) The holder of a class “E” liquor control license shall sell alcoholic liquor in original, sealed and unopened containers only for off-premises consumption.~~

This rule is intended to implement Iowa Code ~~subsection~~ section 123.49(2).

ITEM 10. Amend rule 185—4.8(123) as follows:

**185—4.8(123) Violation by agent, servant or employee.** Any violation of the Act or the rules of the division by any employee, agent or servant of a licensee ~~or permittee~~ shall be deemed to be the act of the licensee ~~or permittee~~ and shall subject the license ~~or permit~~ of said licensee ~~or permittee~~ to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49(2).

ITEM 11. Amend rule 185—4.9(123) as follows:

**185—4.9(123) Gambling evidence.** The intentional possession or willful keeping of any gambling device, ~~machine or apparatus~~ as defined in Iowa Code section ~~99A.1~~ 725.9 upon the premises of any establishment licensed by the division shall be prima facie evidence of a violation of Iowa Code section 123.49(2) “a” and subject the license of said licensee ~~or permittee~~ to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49.

ITEM 12. Amend rule 185—4.11(123) as follows:

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** ~~Class “C” liquor control licensees; class “B,” class “B” native, and class “C” native wine permittees~~ Class “B,” class “C,” special class “C,” and class “E” retail alcohol licensees; special class “B” retail native wine licensees; and the licensee’s or permittee’s employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, 123.30, 123.31A, and 123.31B and in this rule.

**4.11(1) Definitions.**

“Growler,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

“Native wine,” for the purposes of this rule, means ~~wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class “A” wine permittee~~ “native wine” as defined in Iowa Code section 123.3(36).

“Original container,” for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“Wine,” for the purposes of this rule, means “wine” as defined in Iowa Code section ~~123.3(54)~~ 123.3(53).

**4.11(2) Filling and refilling requirements.**

- a. No change.
- b. A growler shall be filled or refilled only by the licensee ~~or permittee~~ or the licensee’s ~~or permittee’s~~ employees who are 18 years of age or older.
- c. and d. No change.
- e. ~~Class “B” native and class “C” native wine permittees~~ Special class “B” retail native wine licensees shall fill a growler with only native wine.
- f. and g. No change.

**4.11(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee ~~or permittee~~ or the licensee’s ~~or permittee’s~~ employees in the following manner:

- a. to d. No change.

**4.11(4) Restrictions.**

- a. to c. No change.

d. A licensee ~~or permittee~~ or a licensee's ~~or permittee's~~ employees shall not allow a consumer to fill or refill a growler.

e. and f. No change.

g. An original container shall only be opened on the premises of a class "B" ~~or class "B" native wine permittee~~ and class "E" retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.11(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee ~~or permittee~~ to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections ~~123.172, 123.178, 123.178A, and 123.178B~~ 123.30, 123.31A, and 123.31B.

ITEM 13. Amend rule 185—4.13(123) as follows:

**185—4.13(123) Outdoor service.** Any licensee ~~or permittee~~ having an outdoor, contiguous, discernible area on the same property on which their licensed establishment is located may serve the type of alcoholic ~~liquor or beer~~ beverage permitted by the license ~~or permit~~ in the outdoor area. After a licensee ~~or permittee~~ satisfies the requirements of this rule, ~~they~~ the licensee may serve and sell ~~beer or liquor~~ alcoholic beverages in both ~~their~~ the licensee's indoor licensed establishment and in ~~their~~ the licensee's outdoor area at the same time because an outdoor area is merely an extension of ~~their~~ the licensee's licensed premise and is not a transfer of their license. A licensee ~~or permittee~~, prior to serving in the outdoor area, must file with ~~this~~ the division:

1. A new diagram showing the discernible outdoor area.
- ~~2. A letter from licensee or permittee telling what dates the outdoor area will be used.~~
- ~~3.~~ 2. A letter from local Local authority approving approval of the outdoor area.
- ~~4.~~ 3. A letter from the insurance and bonding companies acknowledging Insurance company acknowledgment that the outdoor area is covered by the dramshop insurance policy and the bond.

This rule is intended to implement Iowa Code sections ~~123.3(20)~~ 123.3(29), 123.4 and 123.38.

ITEM 14. Amend rule 185—4.14(123) as follows:

**185—4.14(123) Revocation or suspension by local authority.** When the local authority revokes or suspends a ~~beer permit, wine permit, or liquor control~~ retail alcohol license, ~~they~~ the local authority shall notify the division in written form stating the reasons for the revocation or suspension and in the case of a suspension, the length of time of the suspension.

This rule is intended to implement Iowa Code sections 123.4, 123.32, and 123.39.

ITEM 15. Amend rule 185—4.15(123) as follows:

**185—4.15(123) Suspension of liquor control retail alcohol license, wine permit, or beer permit.** At the time of the suspension of any retail alcohol license, wine permit, or beer permit by the division, there shall be placed, in a conspicuous place in the front door or window of the licensed establishment, a placard furnished by the division showing that the license or permit of that establishment has been suspended by the division and such placard shall also show the number of days and reason for the suspension. No licensee or permittee shall remove, alter, obscure or destroy said placard without the express written approval of the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.39.

ITEM 16. Rescind and reserve rule **185—4.16(123)**.

ITEM 17. Amend rule 185—4.17(123) as follows:

**185—4.17(123) Prohibited storage of alcoholic beverages ~~and wine~~.** No licensee shall permit alcoholic beverages ~~and wine~~, purchased under authority of a retail alcohol license ~~or retail permit~~, to be kept or stored upon any premises other than those licensed. However, under special circumstances, the administrator may authorize the storage of alcoholic beverages ~~and wine~~ on premises other than those covered by the license ~~or permit~~. The administrator may allow class "D" ~~liquor control~~ retail



alcohol licensees to store alcoholic liquor and wine in a bonded warehouse to be used for consumption in Iowa, under the authority of a class “D” ~~liquor control~~ retail alcohol license.

This rule is intended to implement Iowa Code sections 123.4 and ~~123.21(11)~~ 123.10(11).

ITEM 18. Amend rule 185—4.18(123) as follows:

**185—4.18(123) Transfer of license or permit to another location.** A licensee or permittee cannot transfer to anyone else the right to use the ~~liquor control~~ retail alcohol license, wine permit, or beer permit of the licensee or permittee; the right of transfer is merely an opportunity for a licensee or permittee to use the licensee’s or permittee’s ~~liquor control~~ retail alcohol license, wine permit, or beer permit at a different location. A ~~liquor control~~ retail alcohol license, wine permit, or a beer permit may only be transferred within the boundaries of the local authority which approved the license or permit.

**4.18(1) Permanent transfers.** A person may ~~obtain an application~~ apply for a permanent transfer from the local authority or the division. The application must be approved by the local authority and sent to the division prior to the transfer. ~~An endorsement from the~~ The insurance company holding the dramshop policy listing the new address must ~~be sent to the division~~ endorse the application prior to the transfer. When the above requirements are met, the division shall issue an amended license or permit showing the new permanent address.

**4.18(2) Temporary transfers.** If the transfer of a retail alcohol license or permit is for the purpose of accommodating a special event or circumstance temporary in nature, the minimum time of transfer is hereby set at 24 hours and transfer time shall not exceed seven days. A ~~letter from person may apply for~~ a temporary transfer. The application must be approved by the local authority ~~granting the temporary transfer must be sent to~~ and the division. The insurance company holding the dramshop policy must ~~be notified of any change of address~~ endorse the application prior to the transfer.

This rule is intended to implement Iowa Code sections 123.4 and 123.38.

ITEM 19. Amend rule 185—4.19(123) as follows:

**185—4.19(123) Execution and levy on alcoholic liquor, wine, and beer.** Judgments or orders requiring the payment of money or the delivery of the possession of property may be enforced against ~~liquor control~~ retail alcohol licensees, and beer permittees, and wine permittees by execution pursuant to the provisions of Iowa Code chapter 626, ~~entitled “Executions.”~~

**4.19(1)** A secured party as defined in Iowa Code section ~~554.9105(1) “m”~~ 554.9102(1) “by” may take possession of and dispose of a ~~liquor control~~ retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer in which the secured party has a security interest in such collateral pursuant to the provisions of Iowa Code chapter 554. The secured party may operate under the ~~liquor control~~ retail alcohol license or permit of its debtor as defined in Iowa Code section ~~554.9105(1) “d”~~ 554.9102(1) “ad” for the purpose of disposing of the alcoholic liquor, wine, and beer. However, if the debtor is a class “E” ~~liquor control~~ retail alcohol licensee, the secured party may not purchase alcoholic liquor from the division to continue to operate its debtor’s business. A secured party operating under the ~~liquor control~~ retail alcohol license or permit of its debtor shall dispose of the alcoholic liquor, wine, and beer by sale only to persons authorized under Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the debtor. When a secured party takes possession of a ~~liquor control~~ retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer, the secured party shall notify the division in writing of such action. A secured party shall further inform the division of the manner in which it intends to dispose of the alcoholic liquor, wine, and beer and shall state the reasonable length of time in which it intends to operate under the ~~liquor control~~ retail alcohol license or permit of its debtor. The secured party shall notify the division in writing when the disposition of its collateral has been completed, and the secured party shall cease operating under the ~~liquor control~~ retail alcohol license or permit of its debtor.

**4.19(2)** A sheriff or other officer acting pursuant to Iowa Code chapter 626 may take possession of a ~~liquor control~~ retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer and may dispose of such inventory according to the provisions of Iowa Code chapter 626; however, the sheriff or other officer must sell the alcoholic liquor, wine and beer only to those persons authorized by Iowa Code

chapter 123 to purchase alcoholic liquor, wine, and beer from the ~~liquor control~~ retail alcohol licensee or ~~permittee~~ whose inventory is subject to the execution and levy. The sheriff or other officer shall notify the division in writing at the time the sheriff or officer takes possession of a ~~liquor control~~ retail alcohol licensee's or permittee's alcoholic liquor, wine, and beer and shall further notify the division of the time and place of the sale of such property.

This rule is intended to implement Iowa Code sections 123.4, ~~123.21(3)~~ 123.10, and 123.38.

ITEM 20. Amend rule 185—4.20(123) as follows:

**185—4.20(123) ~~Liquor store checks~~ Class “E” retail alcohol licensee methods of payment accepted.** ~~The Iowa state liquor stores and the division may accept personal or business checks from holders of a retail liquor control license, including a class “E” licensee, under the following conditions: a class “E” retail alcohol licensee made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn. Bank drafts, signed by the licensee, will be accepted.~~

1. ~~The check must be either the personal check of the licensee or the business check of the licensee. The business check must be the named establishment on the license and cannot be a check on another business owned or operated by the licensee.~~

2. ~~The check must be signed by the licensee. (For all holders of liquor control licenses this is interpreted as those persons whose authorized signatures are on file with the bank for the licensee's account). However, this does not preclude an agent of the licensee from presenting a check signed by the licensee in the normal transaction of buying liquor.~~

3. ~~Traveler's checks and bank drafts, signed by the licensee, will be accepted.~~

4. ~~Personal checks or traveler's checks may be accepted as payment for purchases in state liquor stores. Second party checks shall not be accepted as payment for purchases in state liquor stores. Vendors shall follow the policy established by the administrator of the division for accepting personal checks and traveler's checks for the purchase of alcoholic beverages.~~

~~4.20(1) If a licensee presents this division with a check which is subsequently dishonored by the licensee's bank, the administrator of this division shall cause a written notice of nonpayment and penalty to be served upon the licensee. If the licensee fails to satisfy the obligation within ten days after service of the notice, the administrator or designee shall hold a hearing as in other contested cases pursuant to Iowa Code chapter 17A to determine whether or not the licensee failed to satisfy the obligation within ten days after service of the notice of nonpayment and penalty. If the administrator determines that the licensee has failed to satisfy the obligation, after notice and an opportunity to be heard, the administrator shall suspend the licensee's liquor control license for a period of not less than 3 and not more than 30 days.~~

~~4.20(2) 4.20(1) A retail liquor alcohol licensed establishment which tenders the division one insufficient funds check bank draft for the purchase of alcoholic liquor will lose its check-writing bank draft privilege for 90 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period. A retail liquor alcohol licensed establishment which tenders the division more than one insufficient funds check bank draft for the purchase of alcoholic liquor will lose its check-writing bank draft privilege for 180 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period.~~

~~During the period that a licensee may not tender checks bank drafts to the state liquor stores or this division in payment for alcoholic liquor, state liquor stores and this the division may accept from the licensee: cash, a money order payable to the division for the amount of the purchase, a bank cashier's check signed by a bank official and made payable to the division for the amount of the purchase, or the licensee's personal or business check made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn.~~

~~4.20(3) 4.20(2) The division may collect from the licensee a \$10 fee for each dishonored check bank draft tendered to the division by a licensee for the purchase of alcoholic beverages.~~

~~4.20(4)~~ The division may accept from the general public for alcoholic beverages traveler's checks issued in a foreign country if payment is in U.S. dollars.

~~4.20(5)~~ **4.20(3)** The division may require, at the discretion of the administrator, that a licensee submit a letter of credit in a reasonable amount to be determined by the administrator for future purchases of alcoholic liquor from the division, when a licensee tenders to the division a ~~check~~ bank draft which is subsequently dishonored by the bank ~~on which the check is drawn~~ if the licensee fails to satisfy the obligation within ten days after service of notice of nonpayment and penalty.

This rule is intended to implement Iowa Code sections 123.4 and 123.24.

ITEM 21. Rescind and reserve rule ~~185—4.21(123)~~.

ITEM 22. Rescind and reserve rule ~~185—4.22(123)~~.

ITEM 23. Amend rule 185—4.25(123) as follows:

**185—4.25(123) Age requirements.** Persons 21 years of age or older may hold a liquor retail alcohol license, wine permit, or beer permit; ~~however, persons who are between the ages of 18 and 21 and hold a liquor license, wine permit, or beer permit before September 1, 1986, are not affected by or subject to this rule, and may hold such license or permit even though the licensee or permittee has not attained the age of 21.~~ Persons 18 years of age and older may be bartenders, waiters, and waitresses, and may handle alcoholic beverages, ~~wine, and beer~~ during the course of the person's employment for a licensee or permittee in establishments in which alcoholic beverages, ~~wine, and beer~~ are consumed. Persons 16 years of age and older may sell ~~beer and wine~~ alcoholic beverages in off-premises ~~beer and wine~~ establishments. ~~Persons must be 18 years of age or older to work in a state liquor store.~~

This rule is intended to implement Iowa Code sections 123.30, ~~123.47A~~ and 123.49.

ITEM 24. Amend rule 185—4.26(123) as follows:

**185—4.26(123) Timely filed status.**

**4.26(1)** In addition to the requirements which may be imposed by a local authority upon the holder of ~~an alcoholic beverages license or permit~~ a retail alcohol license to obtain timely filed status of a renewal application, the division may grant timely filed status if the applicant complies with the following conditions:

a. The applicant ~~files~~ submits a completed application with the local authority or the division as required by applicable law.

b. ~~The applicant files a~~ A current ~~dram shop~~ dramshop liability certificate ~~with the local authority or the division~~ has been endorsed by the insurance company if proof of ~~dram shop~~ dramshop liability is required as a condition precedent to the issuance of the license ~~or permit~~.

c. The applicant pays the appropriate license ~~or permit~~ fee in full to the local authority or the division as required by applicable law.

d. ~~The applicant files a~~ A bond ~~with the local authority or the division~~ has been certified by the carrier if a bond is required as a condition precedent to the issuance of the license ~~or permit~~ under applicable law.

**4.26(2)** Timely filed status allows the holder of the license ~~or permit~~ to continue to operate under a license ~~or permit~~ after its expiration and until the local authority and the division have finally determined whether the license ~~or permit~~ should be issued. If the application for the license ~~or permit~~ is denied, timely filed status continues until the last day for seeking judicial review of the division's action.

**4.26(3)** An applicant for a new ~~alcoholic beverages~~ retail alcohol license ~~or permit~~ may not sell alcoholic liquor, wine or beer in the proposed establishment until a license ~~or permit~~ has been granted by the division.

This rule is intended to implement Iowa Code sections 123.32, 123.35 and 17A.18.

ITEM 25. Amend rule 185—4.28(123) as follows:

**185—4.28(123) Use of establishment during hours alcoholic liquor, wine, and beer beverages cannot be consumed.** No one, including a retail alcohol licensee, ~~permittee,~~ and employees the

licensee's employee, can consume ~~beer, wine, or~~ alcoholic beverages in their licensed establishment during hours which ~~beer, wine, and~~ alcoholic beverages cannot be sold. An establishment covered by a ~~liquor retail alcohol license, wine permit, or beer permit~~ can be used as a restaurant or any other lawful purpose during hours which ~~beer, wine, or alcoholic liquor~~ alcoholic beverages cannot be sold as long as ~~beer, wine, or~~ alcoholic beverages are not consumed during these hours.

This rule is intended to implement Iowa Code section 123.49.

ITEM 26. Rescind and reserve rule ~~185—4.31(123)~~.

ITEM 27. Rescind and reserve rule ~~185—4.33(123)~~.

ITEM 28. Amend rule 185—4.34(123) as follows:

**185—4.34(123) Determination of population.** Decennial Censuses and Special Censuses done by the U.S. Census Bureau are recognized as being the official population of a town for the purpose of deciding the price of licenses ~~and permits~~ in that town, but estimates done by the U.S. Census Bureau cannot be viewed as being the official population when deciding the price of licenses ~~and permits~~.

This rule is intended to implement Iowa Code ~~subsection 123.21(11)~~ section 123.10(11).

ITEM 29. Amend rule 185—4.36(123) as follows:

**185—4.36(123) Sale of alcoholic liquor and wine beverages stock when licensee or permittee sells business.** When a retail alcohol licensee ~~or permittee~~ goes out of business, the licensee ~~or permittee~~ may sell the licensee's ~~or permittee's~~ stock of alcoholic liquor and wine beverages to the person who is going to operate a licensed establishment in the same location.

This rule is intended to implement Iowa Code ~~subsection 123.21(5)~~ section 123.10.

ITEM 30. Rescind and reserve rule ~~185—4.37(123)~~.

ITEM 31. Rescind and reserve rule ~~185—4.38(123)~~.

ITEM 32. Amend rule 185—4.40(123) as follows:

**185—4.40(123) Warehousing of beer and wine.** A person holding a class "A" wine permit or a class "A" ~~or "F"~~ beer permit shall warehouse their wine or beer inventory within the state of Iowa. ~~Persons issued a class "A" wine permit or class "A" or "F" beer permit prior to June 10, 1987, shall comply upon renewal or November 1, 1987, whichever date occurs first.~~ A warehouse of a person holding a class "A" wine permit or a class "A" ~~or "F"~~ beer permit shall be considered a licensed premises.

This rule is intended to implement Iowa Code ~~section~~ sections 123.127 and 123.175.

ITEM 33. Amend rule 185—4.41(123) as follows:

**185—4.41(123) Vending machines to dispense alcoholic beverages prohibited.** A ~~liquor control retail alcohol~~ licensee ~~or beer or wine permittee~~ shall not install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing or serving alcoholic beverages. A vending machine is defined as a slug, coin, currency or credit card operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests' rooms.

This rule is intended to implement Iowa Code ~~sections 123.47, 123.47A, 123.49(1), 123.49(2) "b," 123.49(2) "h," and 123.49(2) "k."~~ section 123.49.

ITEM 34. Amend rule 185—5.1(123) as follows:

**185—5.1(123) Manufacture and sale of native wine.** Manufacturers of native wine ~~from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any~~

combination of these ingredients, as defined in Iowa Code section 123.3(36) may sell, keep or offer for sale and deliver their native wine subject to the following regulations and restrictions.

**5.1(1) *Manufacturer of native wine defined.*** A manufacturer of native wine is a person in Iowa who processes grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wine.

**5.1(2) *Residency requirements.*** A manufacturer of native wine who is a sole proprietor must be a resident of Iowa. At least one of the partners of a partnership which is a manufacturer of native wine must be a resident of Iowa. A corporation which is a manufacturer of native wine must be registered to do business in Iowa with the Iowa secretary of state's office in lieu of any other residency requirements.

**5.1(3) 5.1(1) *Licenses required.***

*a. Class "A" native wine permit.* Before selling its wine to the division, class "A" wine wholesalers, retail wine permittees, and liquor control licensees, a manufacturer of native wine shall apply for and shall obtain from the division one class "A" native wine permit and a \$5,000 bond for its wineries and for its retail establishments. A class "A" native wine permit obtained for a native winery and for retail establishments costs \$25 a year. A manufacturer of native wine may obtain an application for a class "A" native wine permit from the division and may submit the completed application and the \$25 fee to the division without having to get the application approved by a local authority. Each class "A" native wine permit is valid for one year from the effective date and must be renewed each year. A manufacturer of native wine must display the original or a copy of its class "A" native wine permit in each of its native wineries and in each of its retail establishments. The \$25 fee paid for a class "A" native winery is not refundable. A manufacturer of native wine must register its retail establishment on forms or systems provided by the division. The division shall issue a manufacturer of native wine duplicate copies of its class "A" native wine permit so that a copy of it can be posted in each winery and retail establishment.

*b. Vintner's certificate of compliance.* In order for a manufacturer of native wine to be able to sell its wine to the division, it must obtain an application for a vintner's certificate of compliance from the division and must obtain a vintner's certificate from the division at no expense in addition to obtaining from the division its one class "A" native wine permit.

*c. Class "B" wine permit.* In order for a manufacturer of native wine to sell wine it did not manufacture, it must obtain a class "B" wine permit and a \$1,000 bond for each native winery or retail establishment.

**5.1(4) *Exclusive operation of retail establishments.*** No person except a manufacturer of native wine can operate a class "A" native wine retail establishment.

**5.1(5) *Distance a retail establishment must be from a native winery.*** A manufacturer of native wine cannot have a retail establishment within five miles of a native winery not operated by the manufacturer of native wine.

**5.1(6) *Sale of native wine only.*** A manufacturer of native wine may sell wine it did not manufacture only if it obtains an appropriate retail wine permit for each location.

**5.1(7) *Hours of sale.*** A manufacturer of native wine can sell its native wine in its native winery and in its retail establishments on Mondays through Saturdays between the hours of 9 a.m. and 10 p.m. and on Sundays between the hours of 10 a.m. and 12 midnight.

**5.1(8) *Premises, books of account and records available for inspection.*** A manufacturer of native wine shall cause the premises, books of account, and records to be accessible and available at all reasonable times for inspection by representatives of the division, the law enforcement division of the Iowa department of public safety, or members of local police authority.

**5.1(9) *Delivery of native wine.*** A manufacturer of native wine may ship its native wine in closed containers to individual purchasers inside and outside Iowa.

**5.1(10) 5.1(2) *Reports required.***

*a. Monthly combined wine production and wine gallonage tax report.* A monthly report is required showing the amount of wine on hand at the beginning of the month, the amount produced, the amount sold, the amount of wine gallonage tax due, and any other information requested. Report forms shall be furnished by the division. A manufacturer of native wine shall submit a report along with any wine gallonage tax payment to in the division's licensing division system by the tenth of each month for the

preceding month's business. Reports and wine gallonage tax payments ~~postmarked~~ submitted by the tenth of each month for the preceding month shall be considered timely. This report ~~must be mailed~~ submitted for each month even if no wine sales were made during the month.

~~*b. Annual report.* A manufacturer of native wine shall, in January of each year, deliver to the division a complete report, sworn to under oath by the owner, a partner or corporate officer, showing the number of gallons of wine produced by the winery in the preceding year. Report forms shall be furnished by the division.~~

~~**5.1(11) Wine gallonage tax.** A manufacturer of native wine must pay to the division a \$1.75 wine gallonage tax on its native wine it sells at wholesale: (1) to retail liquor licensees, (2) to retail beer permittees, (3) to retail wine permittees, and (4) to the division. A manufacturer of native wine does not pay the \$1.75 wine gallonage tax on its native wine it: (1) sells at retail in Iowa in its winery and in its retail establishments, (2) ships to individuals inside and outside Iowa, and (3) sells to other class "A" wine permittees and to class "F" beer permittees.~~

This rule is intended to implement Iowa Code sections 123.4, ~~123.56~~ 123.49, 123.176, and 123.183.

ITEM 35. Amend rule 185—5.2(123) as follows:

**185—5.2(123) Annual production Production of a native distillery.**

~~**5.2(1) Native distillery.** A native distillery is a business with an operating still which produces and manufactures native distilled spirits and holds a class "A" native distilled spirits license as defined in Iowa Code section 123.3(35). The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall be used to determine the amount of native distilled spirits that may be sold per person per day from the native distillery's licensed premises for off-premises consumption and to determine eligibility to obtain a class "C" native distilled spirits liquor control license.~~

~~**5.2(1) 5.2(2) Definitions.**~~

~~"Annual basis," for the purpose of this rule, means a year as defined in Iowa Code section 4.1(40) beginning January 1 and ending December 31.~~

~~"Native distilled spirits" means an alcoholic beverage as defined in Iowa Code section ~~123.3(28)~~ 123.3(34).~~

~~"Operating still," for the purpose of this rule, means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) and is actively used to manufacture spirits.~~

~~"Proof gallon," for the purpose of this rule, means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11.~~

~~**5.2(2)** The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall combine all production facilities of the business and shall be determined based on the 12-month sum of line 26 of Alcohol and Tobacco Tax and Trade Bureau Form 5110.28, Monthly Report of Processing Operations, filed monthly by the native distillery with the division, pursuant to Iowa Code section ~~123.43A(5)~~.~~

~~**5.2(3)** The amount of native distilled spirits that may be sold per person per day from a native distillery's licensed premises for off-premises consumption shall be determined based on the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.~~

~~**5.2(4)** As a condition of obtaining a class "C" native distilled spirits liquor control license, a native distillery shall report to the division, at the time of application, the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.~~

This rule is intended to implement Iowa Code sections 123.3(29), 123.30(3) "c"(3), ~~123.31(6)~~ 123.43 and 123.43A.

ITEM 36. Rescind and reserve rule ~~185—5.3(123)~~.

ITEM 37. Rescind and reserve rule ~~185—5.4(123)~~.

ITEM 38. Rescind and reserve rule ~~185—5.6(123)~~.

ITEM 39. Amend rule ~~185—5.7(123)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 123.4, ~~123.21(11)~~ 123.10, 123.31 and ~~123.56~~ 123.49.

ITEM 40. Amend rule 185—5.8(123) as follows:

**185—5.8(123) Dramshop liability insurance requirements.** For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a liability insurance policy shall meet the following requirements.

**5.8(1) Current certificate required.** The dramshop liability certificate of insurance shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections 515.120 and 515.122. The dramshop policy shall take effect the day the license ~~or permit~~ takes effect and shall continue until the expiration date of the license ~~or permit~~. A new dramshop liability certificate of insurance shall be provided each time the division issues a new license. The dramshop liability certificate of insurance shall contain the following: the name of the insurance provider; the policy number; the name and address of the insured; the license ~~or permit~~ number of the insured, if applicable; and the policy effective dates. Upon request, an insurance company or an insured shall provide to the division a duplicate original of the policy and all pertinent endorsements.

**5.8(2) and 5.8(3)** No change.

**5.8(4) Cancellation.** An insurance company or an insured may cancel a liability policy by giving a minimum of 30 days' prior written notice to the division of the party's intent to cancel the liability policy. The 30-day period shall begin on the date that the division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, or other method deemed acceptable by the division, and shall mail a copy of the notice of cancellation to the licensee ~~or permittee~~ at that party's post office address. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the ~~liquor control~~ retail alcohol license ~~or permit~~ number of the licensee ~~or permittee~~ to be affected by such cancellation.

**5.8(5)** No change.

**5.8(6) Proof of financial responsibility.** A licensee ~~or permittee~~ shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and 123.94 when the licensee ~~or permittee~~ has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by subrule 5.8(1), or by other method deemed acceptable by the division.

**5.8(7) to 5.8(9)** No change.

**5.8(10) Implementation dates.** ~~During the 12-month period commencing on September 1, 2003, all licensees and permittees applying for or renewing a license or permit shall obtain a dramshop insurance policy that conforms to the provisions of rule 5.8(123).~~

This rule is intended to implement Iowa Code sections 123.92, 123.93 and 123.94.

ITEM 41. Amend rule 185—5.9(123) as follows:

**185—5.9(123) Surety bond requirements.** ~~A \$5,000 surety bond shall be filed with the division with each application for a class "A" wine permit and with each application for a wine direct shipper license unless the applicant for the wine direct shipper license posted a surety bond as part of obtaining a class "A" wine permit. A \$10,000 surety bond shall be filed with the division for each application for a class~~

~~“A” beer permit or special class “A” beer permit. A surety bond in an amount of at least \$5,000 but not more than \$15,000 shall be filed with the division with each application for a class “E” liquor control license. Each surety bond shall meet the following requirements.~~

**5.9(1) and 5.9(2)** No change.

**5.9(3) Cancellation.** A surety company or a principal may cancel a bond by giving a minimum of 30 days’ written notice to ~~this~~ the division of the party’s intent to cancel the bond. The 30-day period shall commence on the date that ~~this~~ the division receives the notice of cancellation. The party seeking to cancel a bond shall submit written notice of such cancellation to the division in Ankeny, Iowa, and further shall submit a copy of the notice of cancellation to the other party. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was submitted, the date on which the notice of cancellation was submitted, the date the bond is being canceled, and the license or permit number of the licensee or permittee to be affected by such cancellation.

**5.9(4) Proof of bond.** A licensee or permittee shall be deemed to have furnished a surety bond when the licensee or permittee has:

a. filed Filed with the division a form prescribed by the division containing the following: the name of the bond provider; the city and state where the bond provider is located; the bond number, the names of the principal, and the city and state where the principal is located; the amount of the bond; the type of license or permit guaranteed by the bond; the effective date of the bond; signatures of the principal and the bond provider; and any other information the administrator of the division may require, or

b. Met this requirement by any other method deemed acceptable by the administrator of the division or a designee.

**5.9(5) to 5.9(7)** No change.

This rule is intended to implement Iowa Code sections 123.30, 123.50, 123.127, and 123.175, ~~and 123.187.~~

ITEM 42. Amend subrule 8.2(4) as follows:

**8.2(4) Special order.** Products that are not currently listed for sale by the division may be purchased through a special order placed with the supplier of the product.

a. A request for a special order will be placed with the division by a class “E” ~~liquor control retail alcohol~~ licensee. Special order requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator’s designee. The administrator, or the administrator’s designee, may reject a special order request if it is determined that the requested product is in violation of the requirements set out in subparagraphs 8.3(3) “a”(1) and 8.3(3) “a”(2).

b. No change.

c. All special order products shall be sold and distributed by the division to class “E” ~~liquor control retail alcohol~~ licensees by the case only.

d. Special order products are not eligible for return to the division by a class “E” ~~liquor control retail alcohol~~ licensee without approval from the administrator or the administrator’s designee.

ITEM 43. Amend subrule 8.2(7) as follows:

**8.2(7) Quantity limitations.** Quantities of listed products available for purchase by class “E” ~~liquor control retail alcohol~~ licensees may be limited at the administrator’s, or the administrator’s designee’s, discretion.

ITEM 44. Amend subrule 8.6(3) as follows:

**8.6(3) Price lists.** The division shall publish a price list electronically on a monthly basis showing the price to be paid by class “E” ~~liquor control retail alcohol~~ licensees for each brand, variety, and category of product available for sale by the division. The price list shall be published on the division’s website at [shop.iowaabd.com](http://shop.iowaabd.com) and may be distributed to class “E” ~~liquor control retail alcohol~~ licensees as deemed necessary by the administrator or the administrator’s designee.



ITEM 45. Amend rule 185—8.8(123) as follows:

**185—8.8(123) Barrel programs.** A supplier may offer a barrel program, allowing a class “E” ~~liquor control retail alcohol~~ licensee to purchase the bottled contents of a barrel-aged product along with the aging barrel.

**8.8(1)** Barrel programs shall be uniformly offered to all class “E” ~~liquor control retail alcohol~~ licensee licensees.

**8.8(2)** and **8.8(3)** No change.

**8.8(4)** Products purchased as part of a barrel program shall be sold and delivered to the individual class “E” ~~liquor control retail alcohol~~ licensee that placed the special order. Barrel program special orders and products shall not be split between two or more class “E” ~~liquor control retail alcohol~~ licensees.

**8.8(5)** and **8.8(6)** No change.

ITEM 46. Rescind and reserve **185—Chapter 17**.

ITEM 47. Amend 185—Chapter 18, introductory paragraph, as follows:

#### CHAPTER 18 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The alcoholic beverages division hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of on Agency Procedure relating to public records and fair information practices, which are ~~printed in the first Volume of the Iowa Administrative Code~~ published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the general assembly’s website.

ITEM 48. Amend subparagraph **18.10(2)“g”(2)** as follows:

(2) Information collected and maintained on licensees’ ~~and permittees’~~ dramshop liability insurance.

ITEM 49. Amend rule 185—18.14(123,22) as follows:

**185—18.14(123,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 185—18.1(123,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

**18.14(1) Licensing records.** Licensing records include, but are not limited to, information identifying ownership, location, form of business entity and statements concerning eligibility of applicants to hold ~~liquor~~ retail alcohol licenses and permits. These records are collected and maintained pursuant to Iowa Code sections ~~123.19~~ 123.23, 123.29, 123.30, 123.33, 123.42, ~~123.56~~ 123.49, 123.124, 123.125, 123.127 ~~to~~ ~~123.129~~, 123.135, 123.173, 123.175, 123.176, and 123.180. Licensing records are stored on microfiche, in an automated data processing system, and in extant form. The information stored in the automated data system does not match, collate or permit comparison with other data processing systems. The information contained in licensing records is public information.

**18.14(2)** and **18.14(3)** No change.

**18.14(4) Purchase orders, invoices, account numbers and personal identification numbers.** Purchase orders and invoices include, but are not limited to, records of purchases of alcoholic liquor made by ~~Class class~~ “E” ~~liquor control retail alcohol~~ licensees from the agency and related shipping and transmittal documents. Account numbers and personal identification numbers identify individual ~~Class class~~ “E” ~~liquor control retail alcohol~~ licensees and provide the agency with a method of filling orders, shipping and obtaining payment for liquor from telephone orders by ~~Class class~~ “E”

~~liquor retail alcohol~~ control licensees. These records are collected and maintained pursuant to Iowa Code sections 123.16, 123.24 and 123.30. Purchase orders are stored in extant form and in automated data processing systems. The automated data processing systems used to store these records do not match, collate, or permit comparison with other data processing systems except to the extent that such records may be used by warehouse personnel for inventory control, movement of alcoholic liquor within the warehouse, and filling and shipping orders to Class class “E” liquor control retail alcohol licensees. The information contained in these records which identifies purchases made by individual Class class “E” liquor control retail alcohol licenses is confidential pursuant to Iowa Code section 22.7.

**18.14(5) *Bailment shipments.*** Records of bailment shipments include, but are not limited to, information derived from suppliers concerning shipments of alcoholic liquor into the state warehouse facility, information generated internally concerning alcoholic liquor received from suppliers, information generated by the agency for accounting purposes concerning liquor purchases from suppliers, and information generated by the agency for purposes of inventory control. Records of bailment shipments may contain personally identifiable information on Class class “E” liquor control retail alcohol licensees, and to the extent that such record contains information on purchases of liquor by individual Class class “E” liquor control retail alcohol licensees, the record is confidential. These records are collected and maintained pursuant to Iowa Code section 123.30. Records of bailment shipments are stored in extant form and in automated data processing systems. The method of storage does not match, collate, or permit comparison with other data processing systems, except that comparisons may be made for purposes of agency tracking or auditing liquor inventory.

**18.14(6) and 18.14(7)** No change.

**18.14(8) *Inspections and audits of licensees’ books and records.*** Inspections and audits of licensees’ books and records contain personally identifiable information relating to the operation of licensed establishments and beer and wine wholesalers’ operations. These records are collected and maintained pursuant to Iowa Code sections 123.33, and 123.138, ~~and 123.185~~. These records are stored in extant form, and the manner of storage does not permit comparison with automated data processing systems. The information is public information, except to the extent that the records concerning purchases of liquor made by Class class “E” liquor control retail alcohol licensees from the agency are confidential. To the extent that these records may be used in anticipation of formal administrative proceedings, criminal or civil proceedings against a licensee or permittee, this chapter does not apply to these records.

**18.14(9) and 18.14(10)** No change.

## ARC 7023C

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

**Proposing rule making related to education savings accounts  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to adopt new Chapter 20, “Students First Act—Education Savings Accounts,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7 and 2023 Iowa Acts, House File 68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2023 Iowa Acts, House File 68.

*Purpose and Summary*

This rule making proposes to adopt a new Chapter 20 containing the administrative rules for the education savings account provisions of the Students First Act. New rule 281—20.1(257) provides definitions for the program. New rule 281—20.2(257) sets eligibility requirements for participation. New rule 281—20.3(257) sets parameters for the application process. New rule 281—20.4(257) provides for administration and accountability for the program.

*Fiscal Impact*

This rule making has a fiscal impact to the State of Iowa, as described in the Fiscal Note for House File 68, available at [www.legis.iowa.gov/docs/publications/FN/1367577.pdf](http://www.legis.iowa.gov/docs/publications/FN/1367577.pdf).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 20, 2023. Comments should be directed to:

Thomas Mayes  
Department of Education  
Grimes State Office Building, Second Floor  
400 East 14th Street  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
Email: [thomas.mayes@iowa.gov](mailto:thomas.mayes@iowa.gov)

*Public Hearing*

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

EDUCATION DEPARTMENT[281](cont'd)

June 20, 2023  
9 to 10 a.m.

State Board Room, Second Floor  
Grimes State Office Building  
Des Moines, Iowa  
Via videoconference:  
[IDOE.zoom.us/s/93664266923?pwd=RVlvc2w4WTR6Q1VsU0t4eWc0blpPQT09](https://doe.zoom.us/j/93664266923?pwd=RVlvc2w4WTR6Q1VsU0t4eWc0blpPQT09)

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

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

*Review by Administrative Rules Review Committee*

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

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 7024C**, IAB 5/31/23). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

**ARC 7030C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

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

The Board of Veterinary Medicine hereby proposes to amend Chapter 6, "Application for Veterinary Licensure," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272C.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

*Purpose and Summary*

This proposed rule making amends license by verification rules to comply with 2022 Iowa Acts, Senate File 2383, which removed residency and active duty requirements from the license by verification process for applicants seeking professional licensure who have been licensed in another jurisdiction.

*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.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 20, 2023. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

ITEM 1. Amend subrule 6.6(1) as follows:

**6.6(1) Eligibility.** A person may seek licensure by verification if the person is licensed in at least one other jurisdiction, ~~and either:~~

- ~~a.—The person establishes residency in the state of Iowa; or~~
- ~~b.—The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station in Iowa.~~

ITEM 2. Rescind paragraph **6.6(2)“d.”**

ITEM 3. Reletter paragraph **6.6(2)“e”** as **6.6(2)“d.”**

**ARC 7031C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rule making related to license by verification  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 8, “Auxiliary Personnel,” Iowa Administrative Code.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272C.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

*Purpose and Summary*

This proposed rule making amends license by verification rules to comply with 2022 Iowa Acts, Senate File 2383, which removed residency and active duty requirements from the license by verification process for applicants seeking professional licensure who have been licensed in another jurisdiction.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 20, 2023. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

## VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 1. Amend subrule 8.11(1) as follows:

**8.11(1) Eligibility.** A person may seek registration by verification if the person is registered or licensed in at least one other jurisdiction, ~~and either:~~

- ~~a. The person establishes residency in the state of Iowa; or~~
- ~~b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station in Iowa.~~

ITEM 2. Rescind paragraph **8.11(2)“d.”**

ITEM 3. Reletter paragraphs **8.11(2)“e”** and **“f”** as **8.11(2)“d”** and **“e.”**

**ARC 7029C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rule making related to military service and veteran reciprocity  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to adopt new Chapter 15, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in 2022 Iowa Acts, Senate File 2383, section 21.

*State or Federal Law Implemented*

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

*Purpose and Summary*

The proposed rule making adopts new Chapter 15, which provides a process under which the Board will provide credit toward licensure qualifications for military service and the procedures for issuing reciprocal or provisional licensure for veterans who are licensed in other jurisdictions. The rule making also implements 2022 Iowa Acts, Senate File 2383, section 21, by adding military spouses as individuals who can be licensed under special veteran reciprocity 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 Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 20, 2023. Comments should be directed to:

## VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** 811—Chapter 15:

CHAPTER 15  
MILITARY SERVICE AND VETERAN RECIPROCITY

**811—15.1(272C) Definitions.**

“*Board*” means the Iowa board of veterinary medicine.

“*License*” or “*licensure*” means any license, registration, certificate, or permit that may be granted by the Iowa board of veterinary medicine.

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

“*Military service applicant*” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

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

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

**811—15.2(272C) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**15.2(1)** The application may be submitted with an application for licensure or examination, or prior to application for licensure or to take an examination. No fee is required with submission of an application for military service credit.

**15.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**15.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).



## VETERINARY MEDICINE BOARD[811](cont'd)

**15.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

**15.2(5)** The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**15.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**15.2(7)** A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of rules 811—10.13(17A,169,272C) through 811—10.38(17A) shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**15.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**811—15.3(272C) Veteran or spouse reciprocity.**

**15.3(1)** A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

**15.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including but not limited to completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or a spouse of an active duty member of the military forces of the United States.

**15.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the scope of practice in the jurisdiction where the applicant is licensed is substantially equivalent to the scope of practice in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction.

**15.3(4)** The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose scope of practice is substantially equivalent to the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**15.3(5)** If the board determines that the scope of practice in the jurisdiction in which the applicant is licensed is not substantially equivalent to the scope of practice in Iowa, the board shall promptly inform the applicant of the additional education or training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a temporary license but may request that the licensure application be placed in pending status

VETERINARY MEDICINE BOARD[811](cont'd)

for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional education or training is required, the applicant may request that the board issue a temporary license for a specified period of time during which the applicant will successfully complete the necessary education or training. The board shall issue a temporary license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a temporary license is granted.

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

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

**15.3(6)** An applicant who is aggrieved by the board’s decision to deny an application for a reciprocal license or a temporary license or is aggrieved by the terms under which a temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision. The provisions of rules 811—10.13(17A,169,272C) through 811—10.38(17A) shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement Iowa Code section 272C.12A.

**TREASURER OF STATE**

**Notice—Public Funds Interest Rates**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for May is 5.75%.

**INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS**

74A.2 Unpaid Warrants .....	Maximum 6.0%
74A.4 Special Assessments .....	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective May 9, 2023, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

## TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum 1.15%
180-364 days .....	Minimum 1.40%
One year to 397 days .....	Minimum 1.45%
More than 397 days .....	Minimum 1.20%

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

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

## USURY

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

June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%
December 1, 2022 — December 31, 2022	6.00%
January 1, 2023 — January 31, 2023	6.00%
February 1, 2023 — February 28, 2023	5.50%
March 1, 2023 — March 31, 2023	5.50%
April 1, 2023 — April 30, 2023	5.75%
May 1, 2023 — May 31, 2023	5.75%
June 1, 2023 — June 30, 2023	5.50%

## ARC 7024C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed Emergency

## Rule making related to education savings accounts

The State Board of Education hereby adopts new Chapter 20, “Students First Act—Education Savings Accounts,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7 and 2023 Iowa Acts, House File 68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2023 Iowa Acts, House File 68.

*Purpose and Summary*

This rule making adopts a new Chapter 20 containing the administrative rules for the education savings account provisions of the Students First Act. New rule 281—20.1(257) provides definitions for the program. New rule 281—20.2(257) sets eligibility requirements for participation. New rule 281—20.3(257) sets parameters for the application process. New rule 281—20.4(257) provides for administration and accountability for the program.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the State Board finds that notice and public participation are unnecessary or impractical because 2023 Iowa Acts, House File 68, division II, is effective upon enactment and authorizes emergency rule making.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the State Board also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on May 4, 2023, because 2023 Iowa Acts, House File 68, division II, so provides and because this rule making confers a benefit to the public or some segment thereof by setting up a program that will benefit students and families wishing to exercise expanded school choice.

*Adoption of Rule Making*

This rule making was adopted by the State Board on May 4, 2023.

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as ARC 7023C to allow for public comment.

*Fiscal Impact*

This rule making has a fiscal impact to the State of Iowa, as described in the Fiscal Note for House File 68, available at [www.legis.iowa.gov/docs/publications/FN/1367577.pdf](http://www.legis.iowa.gov/docs/publications/FN/1367577.pdf).

*Jobs Impact*

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

EDUCATION DEPARTMENT[281](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*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 became effective on May 4, 2023.

The following rule-making action is adopted:

Adopt the following **new** 281—Chapter 20:

CHAPTER 20  
STUDENTS FIRST ACT—EDUCATION SAVINGS ACCOUNTS

**281—20.1(257) Definitions.**

**20.1(1)** “Annual income” means the same as “net income” as defined in Iowa Code section 422.7 in effect for the year preceding an application. In calculating annual income, the department shall use information from the last year's state tax form and need not include income of individuals who have no legal obligation to provide support to the student unless said individual is married to the parent or guardian who is responsible for financially supporting the student. If “annual income” cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

**20.1(2)** “Department” means the department of education.

**20.1(3)** “Full-time” means enrollment at a nonpublic school with a minimum school calendar that meets the requirement of Iowa Code section 279.10 for at least 75 percent of the school's definition of full-time.

**20.1(4)** “Household” means the number of people who reside together and who are related by birth, marriage, adoption, legal guardianship, or placement in the home through a state agency. “Household” includes parents, student applicants, and other children who share at least one parent by birth, by adoption, by a parent's current marriage, or by placement in the home through a state agency. A parent on military duty is considered to be residing in the household. If “household” cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

**20.1(5)** “Nonpublic school” means the same as defined in Iowa Code section 285.16.

**20.1(6)** “Qualified educational expenses” means the same as defined in Iowa Code section 257.11B(1)“b” as enacted by 2023 Iowa Acts, House File 68, section 7.

*a.* For purposes of this subrule, an approvable provider of “educational therapies” is qualified by recognized training and education to provide those educational therapies. To prevent waste, fraud, and abuse, “educational therapies” does not include therapies provided by the student's family. For purposes of this subrule, “family” includes parents, step-parents, guardians, siblings, half siblings, step-siblings, grandparents, step-grandparents, aunts, uncles, or first cousins.

## EDUCATION DEPARTMENT[281](cont'd)

*b.* For purposes of this subrule, approvable “online education programs” means online education programs provided by online education providers approved by the department under 281—Chapter 15.

*c.* For purposes of this subrule, an approvable provider of “vocational and life skills education” is any entity approved by the department or any other unit of state government to provide the vocational and life skills education sought.

*d.* For purposes of this subrule, an approvable “accredited provider” is any individual or organization holding a credential issued by the Iowa board of educational examiners or any other credential issued by the state of Iowa. For purposes of this paragraph, paraprofessionals or assistants are sufficiently trained if they hold a credential issued under Iowa Code section 272.12 or if they have received training and education deemed sufficient by their supervising professional.

*e.* For purposes of this subrule, expenses listed in Iowa Code section 257.11B(1) “*b*” as enacted by 2023 Iowa Acts, House File 68, section 7, are not eligible for payment.

**20.1(7)** “Resident” means the same as defined in Iowa Code section 282.1(2).

**20.1(8)** “Student” is synonymous with the term “pupil” as that term is used in Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68, section 7.

**281—20.2(257) Eligible students.**

**20.2(1)** Resident students are eligible as described in Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, with annual income determined pursuant to subrule 20.1(1).

**20.2(2)** Resident students are deemed to attend a nonpublic school for that school budget year under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if the student attends a nonpublic school on a full-time basis.

**20.2(3)** Resident students are deemed enrolled in a nonpublic school for the school year immediately preceding the school year for which the education savings account (ESA) payment is requested under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if they enrolled in and attended a nonpublic school at any point in the immediately preceding school year.

**281—20.3(257) Application process.** The parent or guardian of an eligible student may request an ESA payment during the time period specified by Iowa Code section 257.11B(3) as enacted by 2023 Iowa Acts, House File 68, section 7, by applying to the department, in a manner prescribed by the department. Within the time frame provided by Iowa Code section 257.11B(5) as enacted by 2023 Iowa Acts, House File 68, section 7, the department provides a response to the application.

**281—20.4(257) Administration, accountability, monitoring, and enforcement.**

**20.4(1)** The department will take reasonable efforts to verify eligibility of parents, students, nonpublic schools, and providers to participate in this chapter, including verifying information with other state agencies.

**20.4(2)** The department will make an equal distribution of funds under this chapter to a third-party entity, for distribution to eligible students’ accounts, after confirming enrollment at the start of the academic year and enrollment and attendance at the midpoint of the academic year.

**20.4(3)** The department’s actions under Iowa Code section 257.11B(5) “*e*” and “*f*” as enacted by 2023 Iowa Acts, House File 68, section 7, may be any action consistent with the department’s authority under Iowa Code section 256.1.

**20.4(4)** The department must recover all improperly paid ESA funds. The department and its director have flexibility to engage in voluntary collection activities if overpayments were based on a good faith error. For purposes of this chapter, a “false claim” is a statement made in conjunction with this program that is knowingly false or in reckless disregard of the truth.

**20.4(5)** A parent or guardian may appeal to the state board of education any administrative decision the department or third-party entity makes pursuant to this chapter, including determinations of eligibility, allowable expenses, and removal from the program. An appeal under this subrule must be signed and in writing. Electronic submissions and signatures are allowed. Any appeals under this

EDUCATION DEPARTMENT[281](cont'd)

subrule are timely if filed within 30 days of the date of the administrative decision and are governed by 281—Chapter 6.

These rules are intended to implement Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68.

[Filed Emergency 5/4/23, effective 5/4/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7037C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

**Rule making related to marketing programs**

The Agriculture and Land Stewardship Department hereby amends Chapter 52, “Marketing,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 159.27.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 159.28 and 2022 Iowa Acts, House File 2560.

*Purpose and Summary*

This rule making makes a number of changes to the Choose Iowa Promotional Program and Value-Added Agriculture Grant Program rules.

Updates to the promotional program include:

- Providing a definition for “honey product” and the “supporting organization” membership classification as well as updating the definition for “wholesaler” membership classification;
- Providing product qualifications for an Iowa cider;
- Revising the duration of membership in the program to coincide with the anniversary date of the participant’s registration as opposed to the current calendar basis.

Updates to the grant program include:

- Clarifying that in-kind contributions do not qualify as part of the private match requirement;
- Limiting grant applicants to one project application per grant cycle;
- Clarifying that priority will be given to applicants who were not awarded grant funding in the previous fiscal year;
- Revising the scoring criteria for grant applications;
- Clarifying that grant funds will be disbursed by reimbursement once a project is fully completed.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6907C**. No public comments were received.

The following changes from the Notice have been made:

1. Added a definition for “honey product” and updated product qualifications for honey based on industry feedback;
2. Updated the definition of “wholesaler” for the membership classification to include distribution;
3. Specified that in-kind contributions do not qualify as part of the private match requirement. This was included in the Notice preamble but was inadvertently not included in the proposed rule making.

*Adoption of Rule Making*

This rule making was adopted by the Department on May 9, 2023.

*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.



## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](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 21—Chapter 8.

*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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** definitions of “Honey product” and “Supporting organization” in rule **21—52.1(159)**:

“*Honey product*” means a product where honey is a principal ingredient. For purposes of this definition, a product shall be considered to have honey as a principal ingredient if the product contains at least 50 percent honey by weight.

“*Supporting organization*” is a membership classification that means a person, unified group, association, or business supporting the efforts of the choose Iowa promotional program.

ITEM 2. Amend rule **21—52.1(159)**, definition of “Wholesaler,” as follows:

“*Wholesaler/distributor*” is a membership classification that means a person engaged in the business of selling or distributing agricultural products to retailers or institutions.

ITEM 3. Amend paragraph **52.2(2)“e”** as follows:

*e.* Apicultural products produced by honey bees, including honey, wax, pollen, and propolis, bearing the choose Iowa logo shall be 100 percent of Iowa origin. ~~Processed honey~~ Honey products shall ~~be 80~~ utilize honey that is 100 percent of Iowa origin.

ITEM 4. Amend paragraph **52.2(2)“f”** as follows:

*f.* Beer or cider bearing the choose Iowa logo shall be ~~brewed~~ produced in Iowa and contain at least one Iowa agricultural product, such as Iowa malt, hops, apples, corn, or soluble remnant, excluding water.

ITEM 5. Amend subrule 52.3(3) as follows:

**52.3(3) Duration of membership.** Membership is on an annual basis, coinciding with the ~~calendar year beginning January 1 and ending December 31~~ member's anniversary date of original registration.

ITEM 6. Amend rule 21—52.4(159) as follows:

**21—52.4(159) Fees Membership fees.**

**52.4(1) Membership fees.** Membership fees will be listed in the membership application and will be charged at the following rates:

Producer	\$100
Processor	\$100
Wholesaler/distributor	\$100
Retailer	\$100
Supporting organization	\$100

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

~~52.4(2) New member fees.~~ New member agreements issued during the program year will be assessed at 100 percent of the annual fee regardless of when an application for membership is submitted.

ITEM 7. Amend paragraph **52.21(4)“b”** as follows:

*b.* An applicant must demonstrate the ability to provide matching support for the project on a one-to-one basis. The matching financial support shall be from private sources and does not include in-kind contributions.

ITEM 8. Amend subrule 52.22(2) as follows:

**52.22(2)** Applications will only be accepted during the times established by the department. Late submissions will not be accepted. An individual, business, agricultural cooperative, nonprofit organization, or local government may only apply for one project per grant cycle.

ITEM 9. Adopt the following **new** subrule 52.22(5):

**52.22(5)** Priority will be given to applicants who were not awarded a grant in the previous fiscal year.

ITEM 10. Amend paragraph **52.23(2)“a”** as follows:

*a.* The extent to which the project addresses the goals of the program to increase the sale of Iowa agricultural products, increase market access, diversify markets, or increase processing capacity: ~~25~~ 20 points.

ITEM 11. Amend paragraph **52.23(2)“d”** as follows:

*d.* The sufficiency of the project’s budget and financing structure: ~~45~~ 20 points.

ITEM 12. Amend rule 21—52.24(159) as follows:

**21—52.24(159) Disbursement of funds.** The department will disburse funds for a project only after an agreement has been executed between the applicant and the department and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the agreement will be on a reimbursement basis for expenses incurred by the applicant upon completion of a project.

[Filed 5/11/23, effective 7/5/23]

[Published 5/31/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7028C**

**ALCOHOLIC BEVERAGES DIVISION[185]**

**Adopted and Filed**

**Rule making related to federal regulations for trade practices**

The Alcoholic Beverages Division hereby amends Chapter 16, “Trade Practices,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 123.10 and 123.186.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 123.186.

*Purpose and Summary*

Pursuant to Iowa Code section 123.186, the Division is required to adopt as rules the substance of the federal regulations found in 27 CFR Parts 6, 8, 10, and 11 prescribed by the Alcohol and Tobacco Tax and

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Trade Bureau of the United States Department of the Treasury. These regulations govern allowable and prohibited trade practice activity among alcohol manufacturers, wholesalers, and retailers in the areas of tied house, exclusive outlets, commercial bribery, and consignment sales.

The adopted amendments to Chapter 16 make necessary updates to align the Division's rules with the current federal regulations unless otherwise preempted by Iowa law. The Division believes the updates make the regulatory requirements clearer and make it easier for manufacturers, wholesalers, and retailers to do business in Iowa.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6667C**. A public hearing was held on December 6, 2022, at 1 p.m. via video/conference call.

Only one organization attended the public hearing and provided public comment requesting changes to the rule making. Written public comments were also received.

Based on public comment and 2023 legislation, the following changes were made from the published Notice:

1. Did not adopt a definition for "division" and instead added a definition for "department" to coincide with the enactment of 2023 Iowa Acts, Senate File 514. References to "division" were replaced with "department" throughout the rule making.

2. Amended the definition of "exclusion" in rule 185—16.1(123) to clarify that exclusion can occur in whole or in part.

3. Amended the definition of "furnishings, fixtures and equipment" in rule 185—16.1(123) to clarify that the items identified in subrule 16.3(1) are not included in the definition.

4. Revised new subrule 16.3(1) to clarify that billboards are considered retailer advertising utensils allowed to be supplied, given, or sold by industry members to retailers.

5. Revised new subrule 16.11(2) to remove the requirement that any additional cost incurred by an industry member related to a combination package be included in the cost of the package to the retailer. This requirement does not appear in federal regulation.

6. Revised new paragraph 16.14(2)"a" to reinstate the prohibition against an industry member resetting or rearranging another industry member's products without the explicit consent of the retailer.

7. Did not adopt new paragraph 16.14(2)"b" since it was no longer needed with the revisions to new paragraph 16.14(2)"a." The remaining new paragraph 16.14(2)"c" was relettered as necessary.

8. Revised new subrule 16.60(1) to clarify that an industry member and a retailer may enter into a supply contract of one year or less where the industry member sells alcoholic liquor, wine, or beer to the retailer on an "as needed" basis, provided the retailer is not required to purchase any minimum quantity of such product. This aligns with the corresponding federal regulation.

9. Revised new subrule 16.60(2) to add an example of a prohibited third-party arrangement.

10. Did not adopt amendments to rule 185—16.75(123).

11. Did not adopt amendments to 185—Chapter 16, Part V preamble, since amendments to rule 185—16.75(123) were not adopted. Added amendments to clarify that Part V applies to transactions between industry members and retailers.

12. Did not adopt rule 185—16.76(123).

*Adoption of Rule Making*

This rule making was adopted by the Administrator, with the approval of the Alcoholic Beverages Commission, on April 26, 2023.

*Fiscal Impact*

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

*Jobs Impact*

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

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 Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

*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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend rule 185—16.1(123) as follows:

**185—16.1(123) Definitions.**

“Alcoholic liquor” means “alcoholic liquor” as defined in Iowa Code section 123.3(5). For the purposes of this chapter, “alcoholic liquor” includes “native distilled spirits” as defined in Iowa Code section 123.3(34).

“Beer” means “beer” as defined in Iowa Code section 123.3(7). For the purposes of this chapter, “beer” includes “canned cocktail” as defined in Iowa Code section 123.3(11) and “high alcoholic content beer” as defined in Iowa Code section 123.3(22).

“Brand” means each alcoholic liquor, wine, or beer, or high alcoholic content beer packaged and sold under a separate name, class, type, or kind designation (wine appellation of origin, wine vintage date, alcoholic liquor age, percentage of alcohol, etc.).

“Cost adjustment factor.” The division shall annually adjust the dollar limitations in rule 185—16.2(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in rule 185—16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in rule 185—16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed herein for calendar year 1992 are as follows:

1. ~~Rule 185—16.2(123) Product displays: \$160.~~
2. ~~Rule 185—16.3(123) Retailer advertising utensils: \$78.~~
3. ~~Rule 185—16.16(123) Participation in retail association activities: \$160.~~

“Department” means the department of revenue.

“Equipment” includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

“Exclusion,” in whole or in part, of a competitor’s products includes, but is not limited to, any, some or all of the following factors: means a practice by an industry member, whether direct, indirect, or through an affiliate, that places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer, and such practice results in the retailer’s purchasing less than it would have of

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

a competing industry member's product. The following criteria are indications that a particular practice places retailer independence at risk. A practice need not meet all of the criteria specified below in order to place retailer independence at risk.

1. ~~Position and location of alcoholic beverages products sold during special event.~~
2. ~~Alcoholic beverages products sold prior to allegation of violation in retail establishment.~~
3. ~~Industry member and retailer objective intent.~~
4. ~~Industry member and retailer connection with charitable or civic sponsor of special event.~~
5. ~~Alcoholic beverages products sold during the event.~~
6. ~~Sales price and discounts on alcoholic beverages products sold during the event.~~
7. ~~Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.~~

1. The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.

2. The industry member obligates the retailer to participate in a promotion to obtain the industry member's product.

3. The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

4. The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

5. The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

6. The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

"*Fixtures*" includes, but is not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

"*Furnishings*" includes, but is not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, ~~menus~~, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 185—16.5(123).)

"*Furnishings, fixtures and equipment*" does not include the items identified in rule 185—16.2(123), ~~subrule 16.3(5)~~ subrules 16.3(1) and 16.3(2), ~~rule 185—16.4(123)~~, rule 185—16.5(123), rule 185—16.6(123), rule 185—16.7(123), ~~subrule 16.13(5)~~, ~~or subrule 16.13(6)~~, or paragraph 16.13(2)"a."

"*Industry member*" means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, ~~jobber~~, representative, broker, agent, officer, director, shareholder not considered an institutional investor as defined in Iowa Code section 123.3(27), partner or employee of each of the above.

"*Product*" means alcoholic liquor, wine, ~~beer~~, or ~~high alcoholic content~~ beer as defined in Iowa Code chapter 123.

"*Retailer*" means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders not considered institutional investors as defined in Iowa Code section 123.3(27), partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

"*Sampling*" means the practice of industry members giving product to a retailer for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

"*Tasting*" means the presentation and serving of a product by industry members or retailers to consumers for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

"Trade buyer" means a person who is a wholesaler or retailer of alcoholic liquor, wine, or beer.

"*Trade spending*" means the practice of industry members promoting their brand by purchasing alcoholic beverages for consumers where alcoholic beverages are sold and served for on-premises consumption.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

“Wine” means “wine” as defined in Iowa Code section 123.3(53). For the purposes of this chapter, “wine” includes “native wine” as defined in Iowa Code section 123.3(36).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 2. Amend rule 185—16.2(123) as follows:

**185—16.2(123) Product displays.**

16.2(1) An Except as otherwise provided in this rule, an industry member is prohibited, directly or indirectly, from inducing a retailer to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members by any of the following means:

- a. ~~renting~~ Renting, leasing, or buying display space from a retailer;
- b. ~~paying~~ Paying a retailer to set up a display;
- c. ~~giving~~ Giving a special price on the products featured in the display or other products sold by the industry member;
- d. ~~or providing~~ Providing free merchandise to a retailer in return for a display.

16.2(1) 16.2(2) An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product display. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

16.2(2) 16.2(3) The total value of all product displays per brand per calendar year may not exceed \$155 \$300 per brand at any one time in any one retail establishment. The value of the product display is the industry member’s original cost of the item.

16.2(3) 16.2(4) Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$155 \$300. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$155 \$300.

16.2(5) An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code section 123.186.

ITEM 3. Amend rule 185—16.3(123) as follows:

**185—16.3(123) Retailer advertising utensils, consumer ~~souvenirs~~, advertising specialties, retailer wearing apparel.**

16.3(1) Retailer advertising utensils.

a. An industry member may furnish supply, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. ~~No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.~~ Such materials include, but are not limited to, posters, placards, designs, inside signs (electric, mechanical or otherwise), billboards, window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

b. All retailer advertising utensils must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

c. An industry member shall not pay or credit a retailer, directly or indirectly, for using retailer advertising utensils or for any expense incidental to their use.

~~16.3(1)~~ The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.

~~16.3(2)~~ Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76.

~~16.3(3)~~ Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.

~~16.3(4)~~ The value of the retailer advertising utensil is the industry member's original cost of the item.

~~16.3(5)~~ 16.3(2) Consumer advertising specialties.

a. An industry member may furnish, give, or sell consumer ~~souvenirs~~ advertising specialties to a retailer for unconditional distribution by the retailer to consumers. Consumer ~~souvenirs~~ advertising specialties may include such items as ~~printed recipes, matches, nonalcoholic mixers, bottle or can openers, corkscrews, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pens or pencils, shirts, caps, and visors.~~

b. Consumer ~~souvenirs~~ advertising specialties must bear conspicuous and substantial advertising matter which identifies the industry member or the industry member's alcoholic beverages product about the product or the industry member that is permanently inscribed or securely affixed.

c. ~~The~~ An industry member ~~may~~ shall not pay or credit ~~the~~ a retailer, directly or indirectly, for distributing consumer ~~souvenirs~~ advertising specialties or for any expense incidental to their use. There is no dollar limitation on consumer souvenirs.

d. ~~Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir a consumer advertising specialty also advertises a local event not sponsored by the retailer, the souvenir consumer advertising specialty need only be offered by the industry member to the retailers within the local community where the event is held.~~

~~16.3(6)~~ 16.3(3) Retailer wearing apparel. An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer for use by the retailer and the retailer's employees at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

16.3(4) Record keeping. An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 4. Rescind and reserve rule ~~185—16.4(123)~~.

ITEM 5. Amend rule 185—16.5(123) as follows:

**185—16.5(123) Glassware.**

16.5(1) Disposable beer or wine glassware.

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer.

b. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware.

16.5(2) Commemorative beer or wine glassware.

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

*b.* An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost.

**16.5(3) Durable or disposable alcoholic liquor glassware.**

*a.* An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product.

*b.* An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

**16.5(4) Record keeping.** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 6. Amend rule 185—16.6(123) as follows:

**185—16.6(123) Tapping accessories and coil cleaning service.**

**16.6(1) Tapping accessories.**

*a.* An industry member may sell tapping accessories, identified in rule 185—16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost.

*b.* An industry member may install tapping accessories at a retail establishment provided the retailer bears the cost of initial installation.

**16.6(2) Coil cleaning service.** An industry member may sell, furnish or give wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters, to a retailer. The manufacturer shall be responsible for paying for the costs if carbon dioxide filters are provided.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 7. Amend subparagraphs **16.7(1)“a”(3)** and **(4)** as follows:

(3) No more than two two-fluid-ounce tastes of any brand of beer or ~~high alcoholic content beer~~.

(4) No more than two two-fluid-ounce tastes of a mixed drink or cocktail as defined in ~~185—paragraph 4.5(1)“b.”~~ Iowa Code section 123.3.

ITEM 8. Amend paragraph **16.7(2)“b”** as follows:

*b. Unlicensed premises.*

(1) A tasting of wine, ~~beer,~~ or ~~high alcoholic content~~ beer may be conducted in an unlicensed public place unless prohibited by Iowa Code section 123.46(2) or an applicable ordinance or regulation of the local authority.

(2) A tasting of alcoholic liquor, wine, ~~beer,~~ or ~~high alcoholic content~~ beer may be conducted in an unlicensed private place as defined in ~~185—subrule 4.23(4)~~ Iowa Code section 123.3.

(3) No change.

(4) Wine, ~~beer,~~ and ~~high alcoholic content~~ beer served during a tasting shall be obtained from the respective wholesaler.

(5) and (6) No change.

ITEM 9. Amend paragraph **16.8(2)“c”** as follows:

*c.* Three gallons of any brand of beer or ~~high alcoholic content beer~~.

ITEM 10. Amend subrule 16.8(3) as follows:

**16.8(3) Procurement.** An industry member shall obtain alcoholic liquor, wine, ~~beer,~~ or ~~high alcoholic content~~ beer used for sampling from the respective wholesaler.



## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 11. Amend rule 185—16.10(123) as follows:

**185—16.10(123) Discounts prohibited.** ~~An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area.~~ An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

ITEM 12. Amend rule 185—16.11(123) as follows:

**185—16.11(123) Combination packaging.** An industry member may package and distribute alcoholic liquor, wine, or beer in combination with other nonalcoholic items or products.

~~16.11(1) provided that the items~~ **16.11(1)** Combination packages shall not have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. ~~The combination package must~~

**16.11(2)** Combination packages shall be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer.

**16.11(3)** ~~(Industry members who sell alcoholic liquor to the division department must comply with the division's department's policies regarding combination packaging.)~~

This rule is intended to implement Iowa Code section 123.186.

ITEM 13. Rescind rule 185—16.12(123) and adopt the following **new** rule in lieu thereof:

**185—16.12(123) Consumer promotions.**

**16.12(1) Coupons.** The act by an industry member of furnishing to consumers coupons which are redeemable at a retail establishment does not constitute a means to induce provided the following conditions are met:

a. All retailers within the market where the coupon offer is made may redeem such coupons.

b. An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

**16.12(2) Direct offerings.** Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Officers, employees, and representatives of wholesalers or retailers are excluded from participation.

This rule is intended to implement Iowa Code section 123.186.

ITEM 14. Rescind rule 185—16.13(123) and adopt the following **new** rule in lieu thereof:

**185—16.13(123) Advertising, display or distribution service.**

**16.13(1) Prohibition.** The act of an industry member paying or crediting a retailer, directly or indirectly, for any advertising, display, or distribution service is prohibited if the act results in exclusion. Such acts include, but are not limited to, the following:

a. Making payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

b. Directly or indirectly sharing the cost of an advertisement with a retailer.

c. Purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

d. Purchasing advertising in a retailer publication for distribution to consumers or the general public.

e. Providing reimbursements to retailers for setting up product or other displays.

f. Paying the retailer via a promotion where the industry member rents display space at a retail establishment.

**16.13(2) Exceptions.**

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

*a.* Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

*b.* An industry member may list the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member provided all of the following conditions are met:

(1) The advertisement does not also contain the retail price of the product.

(2) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.

(3) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 15. Amend rule 185—16.14(123) as follows:

**185—16.14(123) Stocking and product rotation.**

**16.14(1) Allowable activities.**

*a.* An industry member may stock, ~~and rotate,~~ and reset alcoholic liquor, wine or beer sold by the industry member.

*b.* An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer.

*c.* An industry member may build product displays either at the time of delivery or at other times.

*d.* An industry member may provide a retailer with a recommended shelf plan or shelf schematic for alcoholic liquor, wine, and beer.

**16.14(2) Prohibited activities.**

*a.* An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer.

*b.* An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

ITEM 16. Rescind rule 185—16.15(123) and adopt the following **new** rule in lieu thereof:

**185—16.15(123) Sponsorships and special events.**

**16.15(1)** An industry member may contribute to charitable, civic, religious, fraternal, educational and community entities.

**16.15(2)** If such entity is conducting a special event as a retailer or in conjunction with a retailer, an industry member's contribution shall not induce the retailer, directly or indirectly, to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members at the special event.

**16.15(3)** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 17. Amend rule 185—16.16(123) as follows:

**185—16.16(123) Participation in educational seminars and retail association activities.**

**16.16(1) Educational seminars.** An industry member may ~~provide~~ give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment regarding such topics as ~~merchandising and product knowledge,~~ use of a retailer's equipment, training seminars for employees of retailers, and tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.16(1)~~ **16.16(2)** Retail association activities. An industry member may participate in retail association activities in the following manner:

- a. Display its products at a trade show or convention.
- b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.
- c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.
- d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.
- e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 \$300 per calendar year to any one retail association.

~~16.16(2)~~ Reserved.

This rule is intended to implement Iowa Code section 123.186.

ITEM 18. Amend rule 185—16.18(123) as follows:

**185—16.18(123) Record keeping.**

**16.18(1)** Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in the following rules:

- a. 185—16.2(123) (product displays);
- b. 185—16.3(123) (retailer advertising utensils, consumer ~~souvenirs~~ advertising specialties, retailer wearing apparel);
- c. 185—16.5(123) (glassware);
- d. 185—16.7(123) (~~tastings, samplings, and trade spending~~ tasting);
- e. 185—16.8(123) (sampling).
- f. 185—16.9(123) (trade spending).
- g. 185—16.15(123) (sponsorships and special events); ~~and~~
- h. 185—16.16(123) (participation in educational seminars and retail association activities).

~~Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records~~

**16.18(2)** Records shall state the following:

- a. ~~the~~ The name and address of the retailer receiving the item;
- b. ~~the~~ The date the item was furnished, sold, given, loaned, leased, or rented;
- c. ~~the~~ The item furnished;
- d. ~~the~~ The industry member's laid-in cost of the item furnished;
- e. ~~and~~ The charges to the retailer for the item.

**16.18(3)** Commercial records or invoices may be used to satisfy the requirements of this rule provided all of the required information appears on the record or invoice.

**16.18(4)** ~~Such records~~ Records shall be open to representatives of the division department during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator department.

This rule is intended to implement Iowa Code ~~section~~ sections 123.33 and 123.186.

ITEM 19. Amend rule 185—16.40(123) as follows:

**185—16.40(123) Equipment, furnishings, fixtures.**

**16.40(1)** An industry member is prohibited from directly or indirectly giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

~~16.40(1)~~ An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.40(2) Reserved.~~ A prohibited indirect inducement includes, but is not limited to, obtaining equipment, furnishings, or fixtures for a retailer through a third-party arrangement where the resulting benefits flow to an individual retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 20. Amend rule 185—16.42(123) as follows:

**185—16.42(123) Free warehousing prohibited.** An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer by delaying delivery of alcoholic liquor, wine, or beer beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended.

This rule is intended to implement Iowa Code ~~section~~ sections 123.45 and 123.186.

ITEM 21. Amend rule 185—16.43(123) as follows:

**185—16.43(123) Extension of credit and prepaid accounts.**

~~16.43(1) Extension of credit.~~ An industry member is prohibited from extending credit on the sale of alcoholic liquor, or beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

~~16.43(1)~~ 16.43(2) Prepaid accounts.

a. An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer.

b. ~~The An~~ industry member may not hold the money so deposited as “security” in a prepaid account for future payment of a debt.

c. ~~The An~~ industry member ~~must shall~~ transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment.

d. An industry member is not required to establish separate escrow accounts for prepaid accounts;

e. ~~however, the An~~ industry member is responsible for accurately and honestly accounting for the funds so held in a prepaid account.

f. A retailer may withdraw the money placed in a prepaid account at any time.

g. An industry member is prohibited from utilizing prepaid accounts to require a retailer to ~~take and dispose of purchase~~ any quota of alcoholic liquor, wine, or beer.

~~16.43(2) Reserved.~~

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

ITEM 22. Amend rule 185—16.44(123) as follows:

**185—16.44(123) Quota sales, tie-in sales.** An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code ~~section~~ sections 123.45 and 123.186.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 23. Adopt the following new rule 185—16.45(123):

**185—16.45(123) Tie-in sales.** An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

ITEM 24. Amend rule 185—16.60(123) as follows:

**185—16.60(123) ~~Implied or express contracts prohibited~~ Contracts to purchase alcoholic liquor, wine, or beer.** ~~An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.~~

**16.60(1) Implied or express contracts.**

a. Any contract or agreement, written or unwritten, which has the effect of requiring the retailer to purchase alcoholic liquor, wine, or beer from the industry member beyond a single sales transaction is prohibited, except as provided in paragraph 16.60(1) "b." Examples of such contracts are:

(1) An advertising contract between an industry member and a retailer with the express or implied requirement of the purchase of the advertiser's products.

(2) A sales contract awarded on a competitive bid basis which has the effect of prohibiting the retailer from purchasing from other industry members by requiring that, for the period of the agreement, the retailer purchase a product or line of products exclusively from the industry member or requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

b. An industry member and a retailer may enter into a supply contract for one year or less under which the industry member agrees to sell alcoholic liquor, wine, or beer to the retailer on an "as needed" basis provided that the retailer is not required to purchase any minimum quantity of such product.

**16.60(2) Third-party arrangements.**

a. Industry member requirements, by agreement or otherwise, with nonretailers which result in a retailer's being required to purchase the industry member's products are prohibited, regardless of whether the agreement or other arrangement originates with the industry member or the third party.

EXAMPLE: A supplier enters into a contractual agreement or other arrangement with a third party. This agreement or arrangement contains an industry member requirement as described above. The third party—a ballclub or municipal or private corporation not acting as retailer—leases the concession rights and is able to control the purchasing decisions of the retailer. The third party, as a result of the requirement, by agreement or otherwise, with the industry member, requires the retailer to purchase the industry member's products to the exclusion, in whole or in part, of products sold or offered for sale by other industry members.

b. Prohibited business arrangements between an industry member and a third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value.

This rule is intended to implement Iowa Code ~~section~~ sections 123.45 and 123.186.

ITEM 25. Amend **185—Chapter 16**, Part V preamble, as follows:

The rule in this part specifies industry member practices that are a means to induce a ~~trade-buyer~~ retailer and that are prohibited. The rule applies to transactions between industry members and employees, officers, or representatives of ~~trade-buyers~~ retailers.

ITEM 26. Amend **185—Chapter 16**, Part VI preamble, as follows:

The ~~rule~~ rules in this part ~~specifies that consignment~~ specify sales arrangements that are prohibited. The ~~rule~~ rules apply to transactions between industry members and trade buyers.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 27. Amend rule 185—16.90(123) as follows:

**185—16.90(123) Consignment sales.** An industry member is prohibited from selling alcoholic liquor, wine, or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine, or beer, until the product is sold by the retailer. ~~An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.~~

This rule is intended to implement Iowa Code section 123.186.

ITEM 28. Adopt the following new rule 185—16.91(123):

**185—16.91(123) Return of alcoholic liquor, wine, and beer.** An industry member may accept the return of alcoholic liquor, wine, and beer for ordinary and usual commercial reasons but is not obligated to do so.

**16.91(1) Ordinary and usual commercial reasons for exchanges and returns.**

*a. Defective products.*

(1) Products which are unmarketable because of product deterioration, leaking containers, damaged labels, or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

(2) Freshness dating. An industry member may accept a return of beer for cash or credit against outstanding indebtedness or exchange the beer for freshness reasons provided all of the following conditions are met:

1. The manufacturer of the beer has policies and procedures in place that specify the date the retailer must pull the product.

2. The industry member's freshness return/exchange policies and procedures are readily verifiable and consistently followed by the industry member.

3. The beer container has identifying markings that correspond with the pull date.

4. The beer product pulled by the trade buyer may not reenter the retail marketplace.

*b. Error in products delivered.* Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness.

*c. Products which may no longer be lawfully sold.* Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

*d. Termination of business.* Products on hand at the time a trade buyer terminates operations via cancellation of the trade buyer's license or permit may be returned for cash or credit against outstanding indebtedness. This does not include the temporary seasonal shutdown of a trade buyer holding a 12-month license or permit.

*e. Termination of franchise.* When an industry member has sold products for cash or credit to one of its wholesalers and the distributorship arrangement is subsequently terminated, stocks of the product on hand may be returned for cash or credit against outstanding indebtedness.

*f. Change in product.* Except as provided in paragraph 16.91(2) "b," a trade buyer's inventory of a product which has been changed in formula, proof, label, or container may be exchanged for equal quantities of the new version of that product.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

*g. Discontinued products.* When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

*h. Seasonal dealers.* Industry members may accept the return of products from retailers holding an eight-month seasonal license or permit upon cancellation of the license or permit. These returns shall be for cash or for credit against outstanding indebtedness.

**16.91(2) Reasons not considered ordinary and usual.** The following are not considered ordinary and usual commercial reasons for exchanges and returns. Exchanges and returns for these reasons are prohibited.

*a.* Overstocked or slow-moving products.

*b.* Products for which there is only a limited or seasonal demand.

This rule is intended to implement Iowa Code section 123.186.

ITEM 29. Amend **185—Chapter 16**, Part VII preamble, as follows:

The ~~rules rule~~ in this part ~~govern the penalties for~~ governs violations of rules within this chapter.

ITEM 30. Rescind rule **185—16.105(123)**.

ITEM 31. Renumber rule **185—16.106(123)** as **185—16.105(123)**.

[Filed 5/8/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7035C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to health care facilities administration**

The Inspections and Appeals Department hereby amends Chapter 50, "Health Care Facilities Administration," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2.

*Purpose and Summary*

The Department completed a comprehensive review of Chapter 50 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making updates citations and removes outdated, unnecessary, and redundant content. It also updates rules related to background checks in accordance with Iowa Code chapter 135Q.

The Department does not believe that these amendments pose a financial hardship on any regulated entity or individual. Rather, the amendments eliminate redundant language from the Iowa Administrative Code.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6911C**. No public comments were received. No changes from the Notice have been made.

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

*Adoption of Rule Making*

This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on May 10, 2023.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's 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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend paragraph **50.3(3)“f”** as follows:

*f.* Residential care facilities ~~for the intellectually disabled,~~ three- to five-bed license,  
481—Chapters 60 and 63 481—Chapter 63;

ITEM 2. Amend rule 481—50.6(10A) as follows:

**481—50.6(10A) Formal hearing.** All decisions of the division may be contested. Appeals and hearings are controlled by 481—Chapter 9, “Contested Cases,” and 481—Chapter 10, “Rules of Procedure and Practice Before the Administrative Hearings Division.”

**50.6(1)** The proposed decision of the hearing officer becomes final ~~ten~~ 15 days after it is mailed.

**50.6(2)** Any request for administrative review of a proposed decision must:

1. Be made in writing,
2. Be mailed by certified mail to the director, within ~~ten~~ 15 days after the proposed decision was mailed to the aggrieved party,
3. State the reason(s) for the request.

A copy shall also be sent to the hearing officer at the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**50.6(3)** and **50.6(4)** No change.

ITEM 3. Amend rule 481—50.7(10A,135C) as follows:

**481—50.7(10A,135C) Additional notification.** ~~The director or the director’s designee~~ A health care facility shall be notified notify the department within 24 hours, or the next business day, by the most expeditious means available (I,II,III):

**50.7(1)** No change.

**50.7(2)** When damage to the facility is caused by a natural or other disaster, including physical impairments affecting operations (e.g., failure of a heating or cooling system, water heater failure).



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

**50.7(3) to 50.7(7)** No change.

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapter ~~235B~~ and 2008 Iowa Acts, ~~House File 2591~~ 235E, which ~~require~~ requires reporting of dependent adult abuse.

ITEM 4. Rescind rule 481—50.8(22,135B,135C) and adopt the following new rule in lieu thereof:

**481—50.8(22,135B,135C) Records.** The division collects and stores a variety of records in the course of licensing and inspecting hospitals and health care facilities, as described in 481—Chapter 5. The records contain both public and confidential information.

**50.8(1) Public information.** The following are general categories of public information:

- a. The department's final findings or the final findings of an accreditation organization with respect to compliance by a hospital or health care facility with requirements for licensing or accreditation, including any plan of correction;
- b. Applications for licensing or certification, accompanying materials, and status of any application;
- c. Reports from the state fire marshal;
- d. Information regarding complaints, unless otherwise confidential pursuant to subrule 50.8(2) or Iowa Code section 22.7;
- e. Waiver requests and responses;
- f. Official notices of licensing or certification sanctions.

**50.8(2) Confidential information.** The following are general categories of confidential information:

- a. Information that does not comprise a final report resulting from a survey, investigation, or entity-reported incident investigation, except as set forth in Iowa Code section 135B.12 or 135C.19(1);
- b. Names of complainants;
- c. Names of patients or residents and any identifying medical information;
- d. The address of anyone other than an owner.

**50.8(3) Redaction of confidential information.** If a record normally open for inspection contains confidential information, the confidential information shall be redacted before the records are provided for inspection.

ITEM 5. Amend subrule **50.9(1)**, definitions of “Employed in a facility” and “Employee,” as follows:

“*Employed in a facility*” or “*employment within a facility*” means all of the following if the provider is regulated by the state or receives any federal or state funding:

1. An employee of a health care facility licensed under Iowa Code chapter 135C if the employee provides direct or indirect services to residents;
2. An employee of a home health agency if the employee provides direct services to consumers;
3. An employee of a hospice if the employee provides direct services to consumers;
4. A health care employment agency worker as defined by Iowa Code section 135Q.1.

“*Employee*” means any individual who is paid either by the facility or any other entity (i.e., ~~temporary~~ health care employment agency, private duty, Medicare/Medicaid or independent contractors).

ITEM 6. Amend paragraph **50.9(3)“b”** as follows:

b. *Conducting a background check.* The facility shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the facility shall submit the person's ~~maiden name~~ prior name(s), if applicable, with the background check request. (I, II, III)

ITEM 7. Amend subrule 50.9(11) as follows:

**50.9(11) Proof of background checks for ~~temporary~~ health care employment agencies and contractors.** Proof of background checks may be kept in the files maintained by ~~temporary~~ health care employment agencies and contractors. ~~Facilities may require temporary~~ Health care employment

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

agencies and contractors ~~to shall~~ provide a copy of the result of the background checks. ~~Copies of such results shall be made available~~ to the facility or department upon request. (I, II, III)

ITEM 8. Amend paragraph **50.11(1)“a”** as follows:

a. Any person with concerns regarding a facility may file a complaint with the Department of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; by use of the complaint hotline, 1-877-686-0027; by facsimile sent to (515)281-7106; or through the website address ~~dia-hfd.iowa.gov/DIA\_HFD/Home.de~~ dia-hfd.iowa.gov.

ITEM 9. Amend paragraph **50.11(2)“a”** as follows:

a. The web-based reporting tool accessible from the following Internet site, ~~dia-hfd.iowa.gov/DIA\_HFD/Home.de~~ dia-hfd.iowa.gov, under the “Login” tab and then access “Add self report”;

[Filed 5/10/23, effective 7/5/23]

[Published 5/31/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7033C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to nursing facilities**

The Inspections and Appeals Department hereby amends Chapter 58, “Nursing Facilities,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2 and 2022 Iowa Acts, House File 803.

*Purpose and Summary*

The Department completed a comprehensive review of Chapter 58 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making removes outdated, unnecessary, and redundant content by streamlining language, referencing pertinent state and federal law, and conforming rules with current and long-standing practices. The amendments also update rules in accordance with changes included in 2022 Iowa Acts, House File 803, providing the same power, privilege, right, or duty to a physician assistant licensed under Iowa Code chapter 148C as to a physician, as is consistent with the scope of practice of the physician assistant as specified therein.

The Department does not believe that these amendments pose a financial hardship to any regulated entity or individual. Rather, the amendments eliminate unnecessary language from the Iowa Administrative Code.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6908C**.

The Department received two sets of public comments. The first, submitted by the Iowa Health Care Association (IHCA), requested retention of language proposed to be removed from paragraph

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

58.12(1)“g” stating: “The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping.” However, that same language is set forth in Iowa Code 135C.24(2). Accordingly, the Department has made no additional change to that item. IHCA also requested the Department retain paragraph 58.47(2)“c,” which provides an exception to resident visitation rights where “[t]he visitor’s behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file).” The Department agrees and has retained that language.

The Department also received public comments from Iowa Dietetics in Health Care Communities (IDHCC). IDHCC specifically supported the Department’s proposed changes to subrule 58.24(2), requested a definition of “qualified health care practitioner” referenced in subparagraph 58.24(2)“d”(3) and subrule 58.24(3), and requested that additional explanation be provided regarding the requirement for “suitable, nourishing alternative meals and snacks.” The Department has revised subparagraph 58.24(3)“c”(2) (Item 28) to provide additional explanation for the “suitable, nourishing alternative meals and snacks” by referencing the federal requirement and interpretive guidelines at 42 CFR 483.60(f). The Department has made no change regarding the provision of a definition of “qualified health care practitioner” because the Department’s intent is to provide flexibility based on the scope of practice permitted by the governing body of the particular type of practitioner.

The Department has also added amendments to paragraphs 58.3(1)“c” (Item 3), 58.3(2)“c” (Item 4), 58.5(7)“b” (Item 6), and subrule 58.40(11) (Item 39) to require 60 days, rather than 30 days, for submission of the initial application, change of ownership information, and voluntary closure. These changes are consistent with current federal requirements. Subsequent items have been renumbered accordingly.

#### *Adoption of Rule Making*

This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on May 10, 2023.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

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

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s 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 5, 2023.

The following rule-making action is adopted:

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

ITEM 1. Amend rule ~~481—58.1(135C)~~, definitions of “Ambulatory” and “Qualified intellectual disabilities professional,” as follows:

“*Ambulatory*” means the condition of a person who immediately and without aid of another is physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs if applicable to the facility.

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

ITEM 2. Rescind the definition of “Chairfast” in rule ~~481—58.1(135C)~~.

ITEM 3. Amend paragraph ~~58.3(1)“c”~~ as follows:

c. Make application at least ~~30~~ 60 days prior to the change of ownership of the facility on forms provided by the department;

ITEM 4. Amend paragraph ~~58.3(2)“c”~~ as follows:

c. Make application at least ~~30~~ 60 days prior to the change of ownership of the facility on forms provided by the department;

ITEM 5. Amend rule ~~481—58.4(135C)~~ as follows:

**~~481—58.4(135C) General requirements.~~**

~~58.4(1) to 58.4(4) No change.~~

~~58.4(5) No~~ A nursing facility shall not be licensed for more beds than have been approved by the health facilities ~~construction review committee~~ council pursuant to Iowa Code chapter 135 or than the facility can accommodate pursuant to the minimum physical standards for nursing facilities as set forth in 481—Chapter 61.

~~58.4(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department~~ The facility shall post in a place readily accessible to residents, visitors, and persons inquiring about placement in the facility the results of the most recent survey of the facility. The facility shall maintain any surveys, certifications, and complaint investigations made respecting the facility during the three preceding years, and any plan of correction in effect with respect to the facility, available for any individual to review upon request. (III)

ITEM 6. Amend rule ~~481—58.5(135C)~~ as follows:

**~~481—58.5(135C) Notifications required by the department.~~** The department shall be notified:

~~58.5(1) Within 48 hours, by letter,~~ of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ~~ratio~~ requirements below ~~that those~~ required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

~~58.5(2) Of~~ Thirty days before any proposed change in the nursing facility’s functional operation or addition or deletion of required services; (III)

~~58.5(3) to 58.5(6) No change.~~

~~58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:~~

a. No change.

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least ~~30~~ 60 days before the sale, transfer, assignment, or lease is completed; (III)

~~c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)~~

~~58.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send~~

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

~~or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.~~

ITEM 7. Amend paragraph **58.8(2)“a”** as follows:

a. The distance between the two facilities shall be no greater than ~~50~~ 75 miles. (II)

ITEM 8. Amend paragraph **58.8(4)“b”** as follows:

b. The facility shall notify the department in writing within ~~ten business~~ 14 days of the administrator's appointment. The written notice shall include the estimated time frame for the appointment of the provisional administrator and the reason for the appointment of a provisional administrator. (III)

ITEM 9. Amend subrules 58.10(8) and 58.10(9) as follows:

**58.10(8)** Infection control program. Each facility shall have a written and implemented infection control and exposure control program with policies and procedures based on the guidelines issued by the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at ~~www.cdc.gov/ncidod/dhqp/index.html~~ www.cdc.gov.

**58.10(9)** Infection control committee. Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. The infection control committee may be part of or the same as another quality assurance committee as long as the following standards are met: (III)

a. to c. No change.

ITEM 10. Amend subrule 58.11(1) as follows:

**58.11(1)** *General qualifications.*

a. and b. No change.

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) to (4) No change.

~~Refer to Guidelines for Infection Control in Hospital Personnel, guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).~~

~~d. Reserved.~~

~~e. d.~~ Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

~~f. e.~~ Persons employed in all departments, except the nursing department of a nursing facility, shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least 240 hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary without experience or training if the facility institutes a formal in-service training program to fit the job description in question and documents such as having taken place within 30 days after the initial hiring of such untrained employees. (III)

~~g. Rescinded, effective 7/14/82.~~

~~h. f.~~ The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

~~i. Those persons employed as nurse's aides, orderlies, or attendants in a nursing facility who have not completed the state approved 75-hour nurse's aide program shall be required to participate in a structured on-the-job training program of 20 hours' duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide's hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state approved 75-hour course may model skills to be learned.~~

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

~~Further, such personnel shall be enrolled in a state-approved 75-hour nurse's aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution.~~

~~Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.~~

~~All personnel administering medications must have completed the state-approved training program in medication administration. (II)~~

~~j. g.~~ There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

~~k. h.~~ Nurse aides may be utilized in accordance with the requirements in 441—subrule 81.13(19) and rule 441—81.16(249A). Nurse aides, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination competency evaluation approved by the department of inspections and appeals in accordance with 441—subrule 81.13(19) and rule 441—81.16(249A). Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

ITEM 11. Amend subrule 58.11(2) as follows:

**58.11(2) Nursing supervision and staffing.**

~~a.~~ Rescinded IAB 8/7/91, effective 7/19/91.

~~b. a.~~ Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

~~e. b.~~ A qualified nurse shall be employed to relieve the supervising nurses, including charge nurses, on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse's station readily available to nurses. (III)

~~d. c.~~ When the health service supervisor serves as the administrator of a facility 50 beds and over, a qualified nurse must be employed to relieve the health service supervisor of nursing responsibilities. (III)

~~e. d.~~ The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)

~~f.~~ Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

~~g.~~ The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 2.0 hours per resident day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. If the maximum medical assistance rate is reduced below the 74th percentile, the requirement will return to 1.7 hours per resident per day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. (II, III)

~~h.~~ The health service supervisor's hours worked per week shall be included in computing the 20 percent requirement.

~~i. e.~~ A nursing facility of 75 beds or more shall have a qualified nurse on duty 24 hours per day, seven days a week. (II, III)

~~j. f.~~ In facilities under 75 beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II, III)

(1) to (3) No change.

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

~~k. g.~~ Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

~~l. h.~~ There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

~~m. i.~~ Physician's and other qualified health care practitioner's orders shall be implemented by qualified personnel. (II, III)

ITEM 12. Amend paragraph **58.12(1)“g”** as follows:

~~g. A nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. Residents have a right to retain and use personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.~~ (III)

ITEM 13. Amend subrule 58.14(2) as follows:

**58.14(2)** Each resident admitted to a nursing facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician or other qualifying health care practitioner, shall be a part of the resident's record. (III)

ITEM 14. Amend subrule 58.14(6) as follows:

**58.14(6)** A schedule listing the names and telephone numbers of the physicians shall be ~~posted in each nursing station~~ readily available to nursing staff. (III)

ITEM 15. Amend paragraph **58.15(2)“c”** as follows:

~~c. Physical examination: The record of the admission physical examination and described in subrule 58.14(2). It shall include the resident's name, sex, age, pertinent medical history, shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician, and any other information required to adequately assess the resident and whether the facility is able to meet the resident's needs;~~ (III)

ITEM 16. Amend paragraph **58.15(2)“e”** as follows:

~~e. Physician's orders~~ Orders for medication, treatment, and diet in writing and signed by ~~the physician~~ an appropriate qualifying health care practitioner quarterly; (III)

ITEM 17. Amend paragraph **58.15(4)“b”** as follows:

~~b. Report of incidents shall be in detail on a printed incident report form or electronic form.~~ (III)

ITEM 18. Amend subparagraph **58.21(6)“c”(2)** as follows:

(2) Be employed in the same facility ~~for and work~~ at least ~~six consecutive months~~ 480 hours prior to the start of the medication aide course. ~~This requirement is not subject to waiver.~~

ITEM 19. Amend paragraph **58.21(6)“d”** as follows:

~~d. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:~~

(1) to (4) No change.

ITEM 20. Amend subrule 58.21(9) as follows:

**58.21(9)** Records shall be kept of all ~~Schedule II drug~~ medications received and dispensed in accordance with ~~the controlled drug and substance Act~~ 42 CFR 483.45(b)(2) and federal interpretive guidelines. (III)

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

ITEM 21. Amend paragraph **58.21(11)“b”** as follows:

*b.* Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy ~~examiners~~.

ITEM 22. Amend paragraph **58.21(13)“a”** as follows:

*a.* Bulk supplies of prescription drugs shall not be kept in a nursing facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist or the prescription drugs are stored in an automated medication distribution system (AMDS) in compliance with standards established by the Iowa board of pharmacy. (III)

ITEM 23. Amend paragraph **58.21(14)“a”** as follows:

*a.* All prescribed medications shall be clearly labeled indicating the resident’s full name, physician’s name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident’s full name, physician’s name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. Prescription medications distributed from an AMDS shall follow any labeling standards established by the Iowa board of pharmacy. (III)

ITEM 24. Amend paragraphs **58.21(14)“j”** and **“k”** as follows:

*j.* Instructions shall be requested of the Iowa board of pharmacy ~~examiners~~ concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

*k.* There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy ~~examiners~~. (II, III)

ITEM 25. Amend paragraph **58.21(14)“r”** as follows:

*r.* A pharmacy operating in connection with a nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy ~~examiners~~. (III)

ITEM 26. Amend subparagraph **58.22(1)“d”(1)** as follows:

(1) The ~~physician’s~~ prescription for treatment; (III)

ITEM 27. Amend subparagraph **58.22(2)“d”(1)** as follows:

(1) Develop the treatment plan and administer or direct treatment in accordance with the ~~physician’s~~ prescription and rehabilitation goals; (III)

ITEM 28. Amend subrules 58.24(2) to 58.24(4) as follows:

**58.24(2) Dietary staffing.** The facility shall employ dietary staff in accordance with 42 CFR 483.60(a).

*a.* ~~The facility shall employ a qualified dietary supervisor who:~~

~~(1) Is a qualified dietitian as defined in 58.24(2)“e”; or~~

~~(2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or~~

~~(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or~~

~~(4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or~~



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

~~(5) Has documented evidence of at least two years' satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 24 months of the date of enrollment; or~~

~~(6) Has completed the 90-hour training course approved by the department and is a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program. (II, III)~~

~~b. and c. No change.~~

~~d. The facility shall employ sufficient supportive personnel to carry out the following functions:~~

~~(1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)~~

~~(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the Food Code as defined in Iowa Code section 137F.2; (II, III)~~

~~(3) Serving therapeutic diets as prescribed by the physician or other qualified health care practitioner, including a licensed dietitian if delegated by the physician and within the dietitian's scope of practice, and following the planned menu. (II, III)~~

~~e. The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to staff hygiene in compliance with the Food and Drug Administration Food Code adopted pursuant to Iowa Code section 137F.2 and 481—Chapter 31. (II, III)~~

~~f. to h. No change.~~

**58.24(3) Nutrition and menu planning.**

~~a. Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician's a qualified health care practitioner's orders and in consideration of the resident's allergies, intolerances, choices, and preferences. (II, III)~~

~~b. Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual or other suitable diet manual shall be available and used in the planning and serving of all meals. (II)~~

~~c. At least three meals or their equivalent shall be served daily at regular hours. (II)~~

~~(1) There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)~~

~~(2) The facility shall offer snacks at bedtime daily. Suitable, nourishing alternative meals and snacks must be provided to residents who want to eat at nontraditional times or outside of scheduled meal service times, consistent with the resident plan of care and 42 CFR 483.60(f) and federal interpretive guidelines. (II, III)~~

~~(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)~~

~~d. to g. No change.~~

~~h. Alternate foods of similar nutritional value shall be offered to residents who refuse the food served. (II, III)~~

**58.24(4) Therapeutic diets and nutritional status.**

~~a. The facility shall ensure that each resident has a nutritional assessment completed by the licensed dietitian within 14 days of admission or after the facility determines there has been a significant change in the resident's physical or mental condition that addresses the residents' medical condition and therapeutic dietary needs, desires and rights in regard to their nutritional plan. (I, II, III)~~

~~b. Therapeutic diets shall be prescribed by the resident's physician or other qualified health care practitioner. A current edition of the Simplified Diet Manual or other suitable diet manual shall be readily available to physicians, nurses and dietetic services personnel. A current diet manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (II, III)~~

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

*c.* and *d.* No change.

ITEM 29. Amend subrule 58.26(2) as follows:

**58.26(2) Coordination of activities program.**

*a.* No change.

*b.* Staffing for the activity program shall be ~~provided on the minimum basis of 35 minutes per licensed bed per week~~ sufficient to meet the residents' activity needs. (II, III)

~~*c.* The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)~~

~~*d. c.* The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)~~

~~*e. d.* There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)~~

ITEM 30. Rescind and reserve rule ~~481—58.27(135C)~~.

ITEM 31. Amend paragraph **58.35(1)“b”** as follows:

*b.* ~~Battery-operated, portable~~ Portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

ITEM 32. Amend subrule 58.35(5) as follows:

**58.35(5) Heating.** A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except as permitted in the governing Life Safety Code or in an emergency. In the event of emergency use, the facility shall provide notice to the state fire marshal's office within 24 hours. (III)

ITEM 33. Amend paragraph **58.38(3)“b”** as follows:

*b.* There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by ~~58.10(8)“h,” 481—paragraph 59.12(10)“h,” or 481—paragraph 64.12(14)“h.”~~ generally accepted infection control standards. (I, II, III)

ITEM 34. Amend paragraph **58.38(3)“f”** as follows:

*f.* Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided ~~and, as a minimum, include the following:~~ (III)

Bath basins	Rectal tubes
Soap containers	Catheters and catheterization equipment
Denture cups	Douche nozzle
Emesis basins	Oxygen therapy equipment
Mouthwash cups	Naso-gastric feeding equipment
Bedpans	Wheelchairs
Urinals	Moisture-proof draw sheets
Enema equipment	Moisture-proof pillow covers
Commodes	Moisture-proof mattress covers
Quart graduate measure	Foot tubs
Thermometer for measurement of bath water temperature	Metal pitcher
Oral thermometer	Disinfectant solutions
Rectal thermometer	Alcohol
Basins for sterilizing thermometers	Lubricating jelly
Basins for irrigations	Skin lotion
Asepto syringes	Applicators
	Tongue blades

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

Sphygmomanometer	Toilet paper
Paper towels	Rubber gloves or disposable gloves
Paper handkerchiefs	Scales for nonambulatory patients
Insulin syringes	Tourniquet
2 cc hypodermic syringes	Suction machine
Weight scales	Medicine dispensing containers
Hypodermic needles	Bandages
Stethoscope	Adhesive
Ice caps	Portable linen hampers
Hot water bottles	Denture identification equipment
	Tracheotomy care equipment

ITEM 35. Amend subrule 58.39(2) as follows:

**58.39(2)** Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior. For the purposes of the subrule, persons with histories of dangerous or disturbing behavior are those persons who have been found to be seriously mentally impaired pursuant to Iowa Code section 229.13 ~~or 812.1~~ within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

*a. to c.* No change.

ITEM 36. Amend paragraphs **58.39(9)“d”** and **“e”** as follows:

*d.* The resident’s plan of care shall be based, in part, on the physician’s orders. It shall be developed upon admission by appropriate facility staff and shall include participation by the resident if capable. Residents shall be advised of alternative courses of care and treatment and their consequences when such alternatives are available. The resident’s preference about alternatives shall be elicited and honored if feasible.

*e.* Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of ~~Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46)~~. A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

ITEM 37. Amend subparagraph **58.40(5)“a”(3)** as follows:

(3) A statement, in not less than 12-point type, that reads as follows: (II)

You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department’s receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department’s designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

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

ITEM 38. Amend subparagraph **58.40(6)“a”(3)** as follows:

(3) A statement, in not less than 12-point type, that reads as follows: (II)

You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department’s receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. ~~(H)~~

ITEM 39. Amend subrule 58.40(11) as follows:

**58.40(11) Transfer upon revocation of license or voluntary closure.** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of ~~30~~ 60 days must be allowed for an orderly transfer of residents to other facilities.

ITEM 40. Rescind paragraph **58.43(7)“j.”**

ITEM 41. Reletter paragraphs **58.43(7)“k”** to **“m”** as **58.43(7)“j”** to **“l.”**

ITEM 42. Amend subrule 58.44(3) as follows:

**58.44(3)** The resident, or the resident’s responsible party, shall be entitled to examine all information contained in the resident’s record and shall have the right to secure full copies of the record at reasonable cost upon request, ~~unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident’s record.~~ (II)

ITEM 43. Amend rule 481—58.46(135C) as follows:

**481—58.46(135C) Resident work.** No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. Residents may perform services for the facility if such services are performed in accordance with 42 CFR 483.10(f)(9). (II)

~~**58.46(1)** Residents may not be used to provide a source of labor for the facility against their will. Physician’s approval is required for all work programs. (I, II)~~

~~**58.46(2)** If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II)~~

~~**58.46(3)** Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)~~

ITEM 44. Amend rule 481—58.47(135C) as follows:

**481—58.47(135C) Communications.** Each resident may communicate, associate, and meet privately with persons of the resident’s choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

~~**58.47(1)** Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)~~

~~**58.47(2) 58.47(1)** Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be~~

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

~~restricted by the facility for one of the following reasons: Residents shall be permitted to receive visitors in accordance with 42 CFR 483.10(f)(4) and the federal interpretive guidelines. A particular visitor may be restricted by the facility if the visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)~~

~~a. The resident refuses to see the visitor(s). (II)~~

~~b. The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)~~

~~c. The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)~~

~~58.47(3) 58.47(2)~~ Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility's staff; or at the resident's request. (II)

~~58.47(4) 58.47(3)~~ Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

~~58.47(5) 58.47(4)~~ Telephones consistent with ANSI standards (405.1134(e)) shall be available and accessible for residents to make and receive calls with privacy in accordance with 42 CFR 483.10(g)(6) and (7). Residents who need help shall be assisted in using the telephone. (II)

~~58.47(6) 58.47(5)~~ Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

~~58.47(7) 58.47(6)~~ Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

~~58.47(8) 58.47(7)~~ Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

ITEM 45. Rescind subrule **58.49(2)**.

ITEM 46. Renumber subrules **58.49(3)** to **58.49(5)** as **58.49(2)** to **58.49(4)**.

ITEM 47. Amend subrules 58.50(2) and 58.50(3) as follows:

~~58.50(2)~~ Spouses who are residents in the same facility shall be permitted to share a room, if available, ~~unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident.~~ (II)

~~58.50(3)~~ Family members shall be permitted to share a room, if available, if requested by both parties, ~~unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident.~~ (II)

ITEM 48. Amend rule 481—58.51(135C) as follows:

**481—58.51(135C) Choice of physician and pharmacy.** Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The Each resident shall have the right to choose the resident's Medicare prescription drug benefit plan (Part D) pursuant to Section 1860D of the Social Security Act, and the facility shall utilize a pharmacy(ies) that recognizes the Part D plans chosen by that facility's Medicare beneficiaries. Each resident shall have free choice of pharmacy as to medications purchased by the resident outside of Part D plan coverage, although the facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility.

A facility shall not require the repackaging of medications dispensed by the Veterans Administration or an institution operated by the Veterans Administration for the purpose of making the drug distribution system compatible with the system used by the facility. (II)

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

ITEM 49. Rescind and reserve rule **481—58.53(135C)**.

ITEM 50. Amend rule 481—58.54(73GA,ch 1016), parenthetical implementation statute, as follows:

**481—58.54(73GA,~~ch 1016~~ 135C) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).**

ITEM 51. Amend subrule 58.54(1) as follows:

**58.54(1)** A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ~~ICF~~ nursing facility license. The license shall state the number of beds in the unit or facility. (III)

*a. and b.* No change.

ITEM 52. Rescind the implementation sentence in rule **481—58.54(73GA,ch 1016)**.

ITEM 53. Amend subrule 58.56(1) as follows:

**58.56(1)** A nursing facility certified as a Medicaid nursing facility or Medicare skilled nursing facility must meet all Medicaid and Medicare requirements including 42 CFR 483.12 483.15, admission, transfer and discharge rights.

ITEM 54. Amend **481—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~10A.202, 10A.402, 135C.6(1), 135C.14, 135C.25, 135C.32, 135C.36 and 227.4 and 1990 Iowa Acts, chapter 1016.~~

[Filed 5/10/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7036C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to minimum physical standards for residential care facilities**

The Inspections and Appeals Department hereby rescinds Chapter 60, "Minimum Physical Standards for Residential Care Facilities," Iowa Administrative Code, and adopts a new Chapter 60 with the same title.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7 and 135C.2.

*Purpose and Summary*

The Department completed a comprehensive review of Chapter 60 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making rescinds and adopts a new Chapter 60, which incorporates by reference generally accepted design and construction standards for the construction and renovation of health care facilities.

The Department requested the assistance of the Building Code Bureau of the State Fire Marshal's Office to review the rules pertaining to minimum physical standards for residential care facilities. During the review process, the Building Code Bureau compared the provisions of existing Chapter 60 against other applicable building codes and standards and determined that many of the provisions of the

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

current chapter were outdated, unenforceable, or irrelevant. The new Chapter 60 aligns more closely with the requirements for other health care facilities licensed pursuant to Iowa Code chapter 135C and incorporates the following pertinent standards from the following chapters:

- 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities;
- 661—Chapter 301, State Building Code—General Provisions, and State Building Code for I-1 Condition 2 occupancies;
- 641—Chapter 25, State Plumbing Code; and
- 661—Chapter 302, State Building Code—Accessibility of Buildings and Facilities Available to the Public.

Consideration is given to existing residential care facilities, which are deemed to comply if the facilities followed prior versions of Chapter 60 at the time of their construction or renovation. Essentially, this rule making omits from new Chapter 60 design and construction standards contained within the administrative rules of the Department of Public Safety, State Building Code Bureau. The new Chapter 60, therefore, focuses on those physical standards directly related to the care of residential care facility residents, including the maintenance of specialized units or rooms.

The Department does not believe that this amendment poses a financial hardship on any regulated entity or individual. Rather, adoption of the amendment will eliminate redundant language from the Iowa Administrative Code.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6910C**. No public comments were received.

One change from the Notice has been made. The Department removed paragraph 60.10(2)“b” and relettered the remaining paragraphs. The requirements that had been proposed to be set forth in paragraph 60.10(2)“b” are outdated because the State Fire Marshal’s Office reviews dietetic service areas as a part of its overall plan review under other applicable regulations.

*Adoption of Rule Making*

This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on May 10, 2023.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s 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 5, 2023.

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

The following rule-making action is adopted:

Rescind 481—Chapter 60 and adopt the following **new** chapter in lieu thereof:

CHAPTER 60  
MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES

**481—60.1(135C) Definitions.** Definitions in rules 481—57.1(135C) and 481—63.1(135C) are incorporated by reference as part of this chapter. In addition, the following definition shall apply:

“*Responsible design professional*” means a registered architect or licensed professional engineer who signs the documents submitted pursuant to rule 481—60.3(135C).

**481—60.2(135C) General requirements.** Residential care facilities licensed under this chapter shall be built in accordance with the following construction standards:

**60.2(1)** Construction shall be in conformance with 661—Chapter 201.

**60.2(2)** Construction shall be in conformance with 661—Chapter 301. Projects meeting the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system that includes both plan review and inspection.

**60.2(3)** Nothing in these rules shall relieve a residential care facility from compliance with fire and building codes, ordinances and regulations that are enforced by a city, county, state or federal jurisdiction.

**60.2(4)** Any alteration or installation of new equipment shall be accomplished as nearly as practical in conformance with all applicable codes, ordinances, regulations and standards required for new construction. Alteration or installation of new equipment shall not diminish the level of compliance with any codes, ordinances, regulations or standards below that existed prior to the alteration. Any feature that does not meet the requirement for new buildings but exceeds the requirement for existing buildings shall not be further diminished. Features that exceed requirements for new construction need not be maintained. In no case shall any feature be less than that required for existing buildings. (III)

**60.2(5)** Existing residential care facilities built in compliance with prior versions of this chapter will be deemed in compliance, with the exception of any renovations, additions, functional alterations, changes of space utilization, or conversions to existing facilities for which construction documents are submitted pursuant to rule 481—60.3(135C) on or after July 1, 2023, which shall meet the standards specified in this chapter. Conversion of a building or any of the parts not currently licensed as a nursing facility must meet the rules governing construction of new facilities.

**60.2(6)** Final plan approval and final occupancy shall be given by the state fire marshal’s office.

**481—60.3(135C) Submission of construction documents.**

**60.3(1)** Submissions of architectural technical documents, engineering documents, and plans and specifications to the state fire marshal’s office shall be as required by rule 661—300.4(103A) and are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

**60.3(2)** Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the construction standards required by rule 481—60.2(135C).

**60.3(3)** Submittals to the state fire marshal’s office shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A, unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of engineering as defined by Iowa Code section 542B.2.

**60.3(4)** The responsible design professional shall certify that the building plans meet the requirements specified in this chapter, unless a waiver has been granted pursuant to rule 481—60.4(135C).

**481—60.4(135C) Waivers.**



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

**60.4(1)** Procedures in rule 481—57.2(135C) for requesting a waiver are incorporated by reference as part of this chapter.

**60.4(2)** Waivers are limited to the specific project under consideration and do not establish a precedent for similar acceptance in other cases. The type of license, occupancy, and function of the building will be considered with respect to a request for waiver. In specific cases, waivers may be granted by the director after the following conditions are met:

- a. The design and planning for the specific property offer improved or compensating features that provide equivalent desirability and utility;
- b. Alternate or special construction methods, techniques, and mechanical equipment offer equivalent durability, utility, safety, structural strength and rigidity, sanitation, and odor control; protection from corrosion, decay and insect attack; and quality of workmanship; and
- c. The health, safety or welfare of any resident is not endangered.

**481—60.5(135C) Additional notification requirements.**

**60.5(1)** When new construction or renovation, addition, functional alteration, change of space utilization, or conversion of an existing building is contemplated, the licensee or applicant for a license shall:

- a. File a detailed and comprehensive program of care, as set forth in rule 481—57.3(135C), which includes a description of the specific needs of the residents to be served, and any other information the department may require. (III)
- b. Receive written approval from the state fire marshal's office before starting construction. The applicant is responsible for ensuring that construction proceeds according to approved plans and specifications.
- c. Meet requirements for new construction if the project includes changes to structural and life safety components of the building or changes for accessibility of persons with disabilities. Only that portion of the building that is part of the project must meet requirements for new construction.

**60.5(2)** For new construction or renovations, additions, functional alterations, change of space utilization or conversion of an existing building, it is the responsibility of the owner or an agent to notify the state fire marshal's office at all of the following intervals and wait for inspection before proceeding. Inspections shall be conducted in accordance with the following schedule:

- a. Two days prior to the beginning of any construction or demolition.
- b. After installation of any under-slab plumbing and before covering is installed.
- c. After installation of electrical, mechanical and plumbing and prior to covering.
- d. Five days prior to a final occupancy inspection.

**60.5(3)** The following must approve the project before final occupancy: the state fire inspector; the state building inspector; and, in jurisdictions without electrical code enforcement, the state electrical inspector. Approval of local or county jurisdictions is as required by those jurisdictions.

**481—60.6(135C) Construction requirements.**

**60.6(1) General provisions.**

a. Projects shall be constructed in compliance with 661—Chapter 201. Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the residential care facility is in compliance with the provisions of 661—Chapter 205.

b. Projects shall be constructed in compliance with 661—Chapter 301. Projects meeting the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system that includes both plan review and inspection.

c. Final plan approval and final occupancy shall be given by the state fire marshal's office.

**60.6(2) Mechanical requirements.**

a. Projects shall be constructed in compliance with 661—Chapter 201.

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

*b.* Projects shall be constructed in compliance with the state mechanical code as provided in 661—Chapter 201. Projects meeting the local mechanical code shall be deemed to be in compliance with the state mechanical code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system that includes both plan review and inspection.

*c.* Final plan approval and final occupancy shall be given by the state fire marshal's office.

**60.6(3) Electrical requirements.**

*a.* Projects shall be constructed in compliance with standards referenced in 661—Chapter 205.

*b.* Projects shall be constructed in compliance with the state electrical code as provided in 661—Chapter 504.

**60.6(4) Plumbing requirements.** Projects shall be constructed in compliance with 641—Chapter 25.

**60.6(5) Accessibility requirements.** Projects shall be constructed in compliance with 661—Chapter 302.

**481—60.7(135C) Typical construction.**

**60.7(1)** Details and finishes shall be designed to provide a high degree of safety for the occupants by minimizing the opportunity for accidents. Hazards such as sharp corners shall be avoided. (III)

**60.7(2)** No door shall swing into the exit corridor except doors to spaces such as small closets that are not subject to occupancy. Each resident bedroom shall have a door that is a swing type and swings in, unless the door is fully recessed.

**60.7(3)** All doors opening into corridors shall be swing-type doors, except elevator doors. (III)

**60.7(4)** All sinks shall have towel dispensers that hold non-reusable towels. (III)

**60.7(5)** Partition, floor, and ceiling construction in resident areas shall comply with noise reduction criteria in the following table. The requirements set forth in this table assume installation methods that will not appreciably reduce the efficiency of the assembly as tested. Location of electrical receptacles, grills, ductwork, and other mechanical items, and blocking and sealing of partitions at floors and ceilings shall not compromise the sound isolation required. (III)

Table 1

Airborne Sound Transmission Class (STC)\*

	Partitions	Floors
Resident's room to resident's room	35	35
Corridor to resident's room	35	35
Public space to resident's room**	40	40
Service areas to resident's room***	50	50

\*STC shall be determined by tests in accordance with methods set forth in ASTM Standard E 90 and ASTM Standard E 413.

\*\*Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar places.

\*\*\*Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above residents' rooms, offices, nurses stations, and similar occupied spaces shall be effectively isolated from the floor.

**60.7(6)** Doors, sidelights, borrowed lights, and windows in which the glazing extends below 31 inches from the floor shall have a horizontal mullion or railing at 31 to 34 inches above the finished floor and be glazed with safety glass, plastic glazing material, or wire glass where required by the state fire marshal. All replacement glass shall meet this code with no exception.

**481—60.8(135C) Sleeping, bathing, and medication rooms.**

**60.8(1)** Facilities shall have a medication room that is well-lighted and has the following: (III)

*a.* A drug cabinet;

*b.* A work counter;

*c.* Refrigerator storage;

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

*d.* A chest or compartment with a lock for storage of Schedule II drugs as defined by Iowa Code chapter 124; and

*e.* A sink.

**60.8(2)** Facilities licensed for 15 beds or fewer need not have a medication room, but shall have space for the appropriate preparation and storage of medication, including locked medication storage as required in subrule 60.8(1).

**60.8(3)** Resident rooms shall meet the following minimum requirements:

*a.* Bedrooms shall open directly into a corridor or common living area and shall not be used as a thoroughfare. (III)

*b.* The minimum room area, exclusive of closets, toilet rooms, lockers, wardrobes, vestibules, and corridor door swings, shall be 100 square feet in one-bed rooms and 80 square feet per bed in multibed rooms. Usable floor space of a room shall be no less than 8 feet in any major dimension.

*c.* Each resident room shall be provided with light by means of a window or windows with a net glass area equal to 10 percent of the total floor area. The window sill shall not be higher than 3 feet above the floor.

*d.* There shall be a wardrobe, closet, or chest of drawers in each resident's room to provide sufficient storage for clothing and personal belongings. Where a closet is shared, segregated portions shall be established. Each wardrobe and closet in each resident room shall have a door. (III)

*e.* No bedroom shall be located so that its floor will be more than 30 inches below the adjacent grade level. (III)

*f.* Fixtures or storage shall be provided to hold individual towels and washcloths. (III)

*g.* No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets other requirements its usage and occupancy dictate, except closets used for the storage of resident's clothing. (III)

*h.* Rooms in which beds are erected shall not be used for purposes other than bedrooms. (III)

*i.* Each resident bedroom shall have a door. The door shall be the swing type and shall swing in, unless fully recessed. (III)

*j.* Multibed rooms shall be designed to permit no more than two beds, side-by-side, parallel to the window wall. (III)

*k.* Each resident bedroom shall be so designed that the head of the bed shall not be in front of a window or a heat register or radiator. (III)

*l.* One sink shall be provided in each resident room. The sink may be omitted from a room when a sink is located in an adjoining toilet room which serves that room. (III)

*m.* Multibed rooms shall provide full visual privacy for each resident. (III)

**60.8(4)** Each resident toilet room shall be adjacent to the resident rooms. Jack and Jill-style toilet rooms are not permitted in new constructions or renovations.

**60.8(5)** Central bathing.

*a.* Minimum numbers of toilets in bathing facilities shall be one sink and one toilet for each 10 residents, and one tub or shower for each 15 residents or fraction thereof. For facilities licensed for 15 beds or fewer, one bathing unit shall be provided for each five residents.

*b.* There shall be a minimum of one bathroom with tub or shower, toilet, and sink on each floor that has resident bedrooms in multistory buildings. (III)

*c.* Separate toilets for genders shall be provided. (III)

*d.* Privacy for dressing and bathing shall be provided in central bathrooms. (III)

*e.* All bathrooms shall have mechanical ventilation. (III)

*f.* Each bathroom shall have a toilet and a sink. (III)

*g.* Toilet and bathing facilities shall not open directly into food preparation areas. (III)

*h.* Central bathing areas shall have a swinging door that swings into the bathroom. (III)

*i.* Soap holders shall be provided in showers and bathtubs. (III)

*j.* Raised toilet seats shall be available for residents as needed. (III)

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

*k.* In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

*l.* Bathtubs or showers shall be equipped with screwdriver stop valves in the water supply system. (III)

*m.* The temperature of the hot water to the resident sinks, bath, and showers shall range between 110° Fahrenheit and 120° Fahrenheit.

**60.8(6)** A soiled workroom, work counter, waste and soiled linen receptacles, and a two-compartment sink shall be provided. (III) One compartment of the double sink shall be a minimum of 10 inches deep for cleaning and sanitizing equipment. (III)

**60.8(7)** Enclosed clean linen storage, separate from the clean workroom. (III)

**481—60.9(135C) Dining, activity, and storage rooms.**

**60.9(1)** Where space is provided for multipurpose dining, activities, or recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities, such as religious meetings or presentation of demonstrations or entertainment. (III)

**60.9(2)** Where space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

**60.9(3)** Where the dining and the lounge recreation areas are separated, each area shall provide a minimum of 180 square feet of usable floor space and be not less than 10 feet in any one dimension. Where space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

**60.9(4)** An equipment storage room shall be provided. (III)

**60.9(5)** Enclosed clothing storage of at least 2 linear feet per bed for storage of off-season clothing shall be provided.

**481—60.10(135C) Service area.**

**60.10(1)** *Definition of a service area.* The size of a service area shall depend upon the number and types of beds within the supervised unit. A service area shall contain the following rooms or areas: (III)

- a.* Dietetic service area,
- b.* Janitor's closet,
- c.* Laundry area,
- d.* General storage area,
- e.* Mechanical room,
- f.* Maintenance shop,
- g.* Yard equipment storage area.

**60.10(2)** *Dietetic service area.*

*a.* Detailed layout plans and specifications of equipment shall be submitted to the department for review and approval before the new construction, alterations, or additions to existing kitchens begin. (III)

*b.* The dietetic service area shall provide food serving facilities for residents and staff outside the food preparation area. (III)

*c.* The dishwashing area shall be provided with mechanical dishwashing equipment. Either conventional or chemical dishwashing equipment may be used. (III)

(1) Where conventional dishwashing equipment is used, the hot water system shall be designed to supply hot water at 110° Fahrenheit to 120° Fahrenheit. (III)

(2) A three-compartment pot and pan sink shall be provided for ware washing that provides and maintains hot water at 110° Fahrenheit to 115° Fahrenheit for washing and 170° Fahrenheit to 180° Fahrenheit for sanitizing, or a two-compartment sink shall be provided for soaking and washing utensils, with easy access to a dish machine that must be large enough for sanitizing all sizes of utensils used. (III)

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

(3) Machines (single-tank stationary rack, door-type machines and spray-type glass washers) using chemicals for sanitation may be used, provided that:

1. The temperature of the wash water shall not be less than 120° Fahrenheit. (III)
  2. Chemicals added for sanitation purposes shall be automatically dispensed. (III)
  3. The wash water shall be kept clean. (III)
  4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration. (III)
  5. The chemical sanitizing rinse water temperature shall be not less than 75° Fahrenheit nor less than the temperature specified by the machine's manufacturer. (III)
  6. Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010. (III)
  7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used. (III)
- d.* The dietetic service area shall be designed to provide a separation of the clean and dirty areas and to eliminate intermingling of the two types of activities. Food preparation and service areas are regarded as clean areas. (III)
- e.* A hand-washing sink shall be provided in the dietetic service area. In facilities licensed for eight beds or fewer, the sink shall be adjacent or convenient to the dietetic service area. (III)
- f.* There shall be refrigerated storage for at least a three-day supply of perishable food. (III)
- g.* There shall be available storage for at least a seven-day supply of staple food. (III)
- h.* Provisions for maintaining sanitary waste disposal and storage shall be provided on the premises. (III)
- i.* Where meals are provided by a health care facility or by a commercial food service, the preparation, storing and serving of the food and the utensil sanitizing procedures shall meet the requirements of these rules. (III)
- j.* Mechanical ventilation shall be provided in food storerooms to maintain temperatures and humidity at a level appropriate for the type of food being stored. (III)

**60.10(3) Janitor's closet.**

- a.* A janitor's closet shall be provided for storage of housekeeping supplies and equipment, including a floor receptor or service sink. (III)
- b.* The door to the janitor's closet shall be equipped with a lock. (III)
- c.* Locked storage shall be provided for chemicals. (III)

**60.10(4) Laundry area.**

- a.* In the laundry area, a work flow pattern shall be established in which soiled linen is not transported through the clean area to the soiled area. Two distinct areas physically separated, not necessarily by a wall, are required. (III)
- b.* A hand-washing sink shall be located in the laundry area. In facilities licensed for 15 beds or fewer, a hand-washing sink located adjacent to the laundry area may meet this requirement. (III)
- c.* Where linen is processed onsite, the following shall be provided (III):
  - (1) A clean, dry, well-lighted laundry processing room with equipment sufficient to process seven days' needs within the workweek.
  - (2) A soiled linen holding area.
  - (3) A clean linen area.
  - (4) Linen cart storage.
  - (5) Lockable storage for laundry supplies.
  - (6) One janitor's closet or alcove in the immediate vicinity of the laundry.
- d.* The laundry room in any facility not using off-site processing but serving more than 20 residents shall contain no less than 125 square feet of available floor space. (III)
- e.* Where linen is processed off the site, the following shall be provided (III):
  - (1) Soiled linen holding room.
  - (2) Clean linen receiving, holding, inspection, and storage area.

**60.10(5) General storage areas.**

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

a. General storage areas totaling not less than 10 square feet per bed shall be provided. Storage areas are not required to be located in the same area. (III)

b. The equipment storage room space may be included in this general area, but is not required to be located in the same area. (III)

c. Storage areas for linens, janitor's supplies, sterile nursing supplies, activity supplies, library books, office supplies, kitchen supplies, and mechanical plant accessories shall not be included as part of the general storage area and are not required to be located in the same area. (III)

d. Thirty percent of the general storage area may be provided in a building outside the facility, readily and easily accessible by the personnel. (III)

**60.10(6) Mechanical, electrical, and maintenance areas.** The following areas shall be provided (III):

a. Boiler room or mechanical room and electrical equipment room. (III)

(1) These rooms may be used for noncombustible material storage.

(2) Any noncombustible material shall not be stored close to or hinder access to any fuel-fired equipment or electrical panels.

(3) These areas shall not be included in calculating the 10 square feet per bed for general storage areas, as required under paragraph 60.10(5) "a."

b. Yard equipment storage may be provided in a separate room or building for yard maintenance equipment and supplies. This shall not be included in the general storage area.

c. No portable fuel-operated equipment shall be housed inside a facility unless it is separated by at least a two-hour fire separation approved by the state fire marshal's office.

d. Rooms containing heating or cooling equipment shall be locked.

**481—60.11(135C) Administration and staff area.** The size of an administration and staff area depend upon the needs of the facility. An administration and staff area shall contain the following rooms or areas (III):

1. An administration office.

2. An area containing storage for office equipment and supplies. This area shall be secure and contain work space for charting and record storage and may contain medication storage.

3. A lounge shall be provided for staff. Toilet rooms with sink and toilet shall be provided for staff.

4. Closets or compartments for the safekeeping of coats and personal effects of staff.

**481—60.12(135C) Public area.** A public area shall contain a public telephone accessible to the residents within the facility to make personal calls. It shall also contain a separate bathroom for the public, including a toilet and sink. (III)

**481—60.13(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (memory care unit or facility).** A memory care unit or facility shall be designed in accordance with the standards set forth in 661—Chapter 201. The following provisions shall also apply (III):

**60.13(1)** A memory unit or facility shall be designed so that residents, staff, and visitors will not pass through the unit in order to reach exits or other areas of the facility unless in an emergency.

**60.13(2)** If the unit or facility is to be a locked unit or facility, all locking devices shall meet the requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required.

**60.13(3)** The outdoor activity area for the unit or facility shall be secure. Nontoxic plants shall be used in the secured outdoor activity area.

**60.13(4)** There shall be no steps inside the memory care unit or facility.

**60.13(5)** Dining and activity areas for the unit or facility shall be located within the unit or facility and shall not be used as the primary dining or activity area by other facility residents.

**481—60.14(135C) Elevator requirements.** All residential care facilities where resident facilities are located on other than the first floor shall have one or more electric or electrohydraulic elevators, as

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

required. For purposes of this requirement, resident facilities include, but are not limited to, diagnostic, recreation, activity, resident dining, and therapy rooms or additional resident bedrooms. The first floor is that floor first reached from the main front entrance. Elevators, where installed, shall comply with the division of labor rules as promulgated in Iowa Code chapter 89A and 875—Chapters 71 to 73. (III)

These rules are intended to implement Iowa Code section 135C.14.

[Filed 5/10/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7034C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to boarding homes**

The Inspections and Appeals Department hereby amends Chapter 66, "Boarding Homes," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135O.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135O.2.

*Purpose and Summary*

The Department completed a comprehensive review of Chapter 66 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making clarifies current practices, updates citations, and removes unnecessary text.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6909C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on May 10, 2023.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend rule 481—66.1(83GA,SF484), parenthetical implementation statute, as follows:

**481—66.1(83GA,SF484 1350) Definitions.**

ITEM 2. Adopt the following new definition of “Assistance with activities of daily living” in rule **481—66.1(83GA,SF484)**:

“*Assistance with activities of daily living*” does not mean routine, total dependence on staff for the performance of activities of daily living or nursing care.

ITEM 3. Amend rule **481—66.1(83GA,SF484)**, definition of “Probable cause,” as follows:

“*Probable cause*” means a reasonable suspicion to believe that a boarding home is in violation of ~~2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 1350]~~, Iowa Code chapter 1350 or licensing or other regulatory requirements of the department of human services, department of inspections and appeals, or department of public health; or that dependent adult abuse of any individual living in the boarding home has occurred or is occurring.

ITEM 4. Amend rule 481—66.2(83GA,SF484) as follows:

**481—66.2(83GA,SF484 1350) Registration of boarding homes.**

**66.2(1)** A boarding home shall ~~file a statement of complete and submit to the department the boarding home registration with the department form located on the department's website within 60 days of commencing operations.~~

~~a. Boarding homes in operation on January 1, 2010, or after shall register with the department within 60 days of commencing operations.~~

~~b. Boarding homes in operation prior to January 1, 2010, shall register with the department no later than March 1, 2010.~~

**66.2(2)** The ~~statement of registration form~~ may be submitted electronically via ~~an Internet-based system~~ the department's website; by mail to the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by fax to (515)242-5022.

**66.2(3)** The registrant shall include, at a minimum, the following information on the statement of registration:

~~a. to c.~~ No change.

~~d.~~ Contact information for the owner, lessee, and manager, including telephone number, mailing address, and ~~E-mail~~ email address;

~~e. to h.~~ No change.

**66.2(4)** and **66.2(5)** No change.

ITEM 5. Amend rule 481—66.3(83GA,SF484) as follows:

**481—66.3(83GA,SF484 1350) Occupancy reports.** ~~See rule 481—66.1(83GA,SF484) for the definition of “known.”~~

**66.3(1)** Each boarding home shall ~~file an occupancy report annually~~ update its boarding home registration form with the department annually between January 1 and January 31 in the same manner as provided in subrule 66.2(2).



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

~~a.~~ For new boarding home registrations, an occupancy report shall be filed along with the initial statement of registration. The occupancy report that accompanies the initial statement of registration shall provide information as of the last day of the preceding month.

~~b.~~ After the initial registration, registrants shall submit a completed occupancy report by January 31 of each year with information current as of December 31 of the preceding year.

~~66.3(2)~~ The occupancy report may be submitted electronically via an Internet-based system; by mail to the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by fax to (515)242-5022.

~~66.3(3)~~ **66.3(2)** The owner or lessee shall include, at a minimum, the following information on the occupancy report. If the owner or lessee is unable to answer the question because the owner or lessee does not have such information, the owner or lessee shall indicate such on the report.

a. to j. No change.

ITEM 6. Amend rule 481—66.4(83GA,SF484) as follows:

**481—66.4(83GA,SF484 135O) Complaints and investigations.**

**66.4(1) Complaints.**

a. The process for filing a complaint is as follows:

(1) Any person with a concern regarding the operation of a boarding home may file a complaint with the Department of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083, or by department in writing, by use of the complaint hotline, telephone at 1-877-686-0027 or through the department's website at [dia.iowa.gov](http://dia.iowa.gov). The Web site address is [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do).

(2) When the nature of the complaint is outside the department's authority, the department shall forward the complaint to the appropriate investigatory entity.

(3) If other state agencies receive a complaint that relates to boarding homes, the agencies shall forward the complaint to the department.

b. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the boarding home or is without a reasonable basis. If the department, upon preliminary review, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

**66.4(2) Content of complaint reports.** The complaint shall include as much of the following information as possible: the complainant's name, address and telephone number; the complainant's relationship to the boarding home and tenant; and the reason for the complaint. The complainant's name and identifying information shall be confidential information and shall not be released by the department.

~~66.4(3) Time frames~~ Initiation of investigations and time frames for investigation of complaints. Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary review of the complaint to determine if probable cause exists to investigate the complaint. If probable cause exists, an Investigations may be initiated because of a complaint or other information received by the department. If the department determines there is probable cause to believe that a boarding home is an unregistered boarding home or that a registered boarding home is not in compliance with applicable law, an investigation shall be initiated. The department shall evaluate whether other local, state, or federal agencies, including law enforcement, should be provided a referral or included in the investigation. An investigation of the boarding home shall be initiated, as provided in rule 481—66.5(83GA,SF484), within 45 working days. If there is the likelihood of immediate danger, the department shall initiate an investigation of the boarding home within 2 two working days of receipt of the complaint. If there is an allegation of harm, the department shall initiate an investigation of the boarding home within 20 working days of receipt of the complaint.

~~66.4(4) Submission of all complaints to core multidisciplinary team.~~ A copy of all complaints and the department's initial determination whether to investigate the complaint shall be sent to the core multidisciplinary agencies: the department of human services, the state fire marshal of the department of public safety, and the department of justice. If the department has determined not to initiate an

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

~~investigation, the members of the core multidisciplinary team may recommend the initiation of, and the department shall initiate, an investigation.~~

~~66.4(5)~~ **66.4(4)** *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

~~66.4(6)~~ **66.4(5)** *Notification of the boarding home or alleged boarding home of results of investigation.* The department shall notify the boarding home or alleged boarding home, in writing, of the final report of the complaint investigation.

~~66.4(7)~~ **66.4(6)** *Notification of the complainant of results of investigation.* The complainant, if known, shall be notified of the final findings of a complaint investigation. The complainant, if known, shall also be notified if the department determines not to investigate a complaint and shall receive an explanation of the department's decision.

ITEM 7. Rescind and reserve rule ~~481—66.5(83GA,SF484)~~.

ITEM 8. Amend rule ~~481—66.6(83GA,SF484)~~ as follows:

~~481—66.6(83GA,SF484 135O)~~ **Penalties.** The director shall consider the following when determining whether to assess a penalty for violation of 2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O], Iowa Code chapter 135O or rules adopted pursuant to 2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O] thereunder, and when determining the amount of the penalty:

1. to 5. No change.

ITEM 9. Amend rule ~~481—66.7(83GA,SF484)~~ as follows:

~~481—66.7(83GA,SF484 135O)~~ **Public and confidential information.**

**66.7(1)** *Public disclosure.* The following records are open and available for inspection:

- a. Registration forms and accompanying materials;
- b. Final findings of investigations, unless otherwise confidential by law, such as investigative findings of the division of criminal investigation of the department of public safety or dependent adult abuse investigations; and
- c. Official notices of penalties.

**66.7(2)** *Confidential information.* Confidential information includes the following:

- a. Information that does not comprise a final finding ~~resulting from a complaint investigation or other investigation of the multidisciplinary team and its individual members~~;
- b. Names and identifying information of all complainants;
- c. Names of tenants of a boarding home, identifying personal or medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or lessee; and
- d. Social security or employer identification numbers (EIN).

**66.7(3)** *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.

**66.7(4)** *Searchable database of all registered boarding homes.* The department shall maintain a searchable database of all registered boarding homes on the health facilities division's ~~Web site~~ website at ~~https://dia-hfd.iowa.gov/DIA\_HFD/Home.do~~ dia-hfd.iowa.gov.

ITEM 10. Amend ~~481—Chapter 66~~, implementation sentence, as follows:

These rules are intended to implement ~~2009 Iowa Acts, Senate File 484~~ Iowa Code chapter 135O.

[Filed 5/10/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7021C****IOWA FINANCE AUTHORITY[265]****Adopted and Filed****Rule making related to disaster recovery housing assistance**

The Iowa Finance Authority hereby rescinds Chapter 29, “Jump-Start Housing Assistance Program,” and adopts a new Chapter 29, “Disaster Recovery Housing Assistance,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 16.5 and 16.57D.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 16.57B and 16.57C as enacted by 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

The purpose of this rule making is to implement 2021 Iowa Acts, Senate File 619, division XVI, which created a standing vehicle for distributing disaster recovery housing assistance to eligible homeowners in the form of forgivable loans and to eligible renters in the form of grants. The rules describe the operation of the program, define eligible homeowners and eligible renters, describe eligible uses of funds, set the maximum forgivable loan and grant amounts that may be awarded, set the terms of forgivable loans and grants, and allow the Authority to request information as needed to provide reports.

The legislation also established an Eviction Prevention Program. This program allows the Authority to award grants to keep eligible renters in their current residences and to eviction prevention partners to pay for rent or housing stability services for the purpose of preventing the eviction of eligible renters. The rules set the income qualifications for eligible renters in the program, describe the eligible uses of funds, and describe the terms on which grants may be awarded. Both the Disaster Recovery Housing Assistance Program and the Eviction Prevention Program must be activated by a state of disaster emergency proclamation.

Chapter 29 was reviewed as part of the Authority’s five-year rules review. In 2008, the Legislature appropriated funds to assist Iowans in need of housing after natural disasters in the state. Chapter 29 was created to oversee that funding and describe the operation of the program. The Authority has determined that it is appropriate to rescind and replace the chapter because there are no outstanding obligations from this program.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6820C**. The Authority received several comments from Habitat for Humanity of Iowa (Habitat). The comments and the Authority’s responses are summarized below.

First, Habitat requested that the Authority make contract sale agreements eligible for funding under the program. In accordance with the statute, the rules describe eligible homeowners and eligible uses of funds. The Authority determined that it is not necessary to further describe eligibility. Additionally, subparagraph 29.4(1)“b”(2) establishes the method for calculating the amount of down payment assistance to be awarded to an eligible homeowner and states that eligible homeowners who have purchased their home under a real estate purchase contract may apply for a forgivable loan.

Second, Habitat asked the Authority to revise paragraphs 29.3(1)“c” and “d” by adding the phrase “at the time of application and funding” to the beginning of each paragraph. Habitat commented that, as presented in the Notice, those requirements would take too long to be determined and that families need help sooner. The cited paragraphs do not preclude the Authority from providing down payment assistance for replacement housing as soon as possible following a disaster. The Authority can conduct a duplication

IOWA FINANCE AUTHORITY[265](cont'd)

of benefits determination later, at the time any buyout is complete. Subparagraph 29.4(1)“b”(3) also provides for the repayment of any subsequent disaster compensation received by a homeowner.

Third, Habitat commented that a disaster-affected home should be the primary residence of an eligible homeowner. This requirement was published in the Notice and found in the definition of “disaster-affected home” in rule 265—29.1(16).

Fourth, Habitat noted that after a disaster, it is very difficult to purchase a replacement house in a timely manner and most families will want to remain in their same community. Habitat requested that the Authority add a third eligible use of funds for homeowners. The suggested use was to award grants for rental assistance so that homeowners can obtain rental housing in their community. In response, the Authority notes that Iowa Code section 16.57B specifically outlines the eligible uses of funds. It would be outside the scope of the Authority’s rule-making authority to add an eligible use of funds not specifically identified in the statute.

One change from the Notice has been made to remove a reference to 2021 Iowa Acts, chapter 177, division XVI, since the legislation has been codified in the Iowa Code.

#### *Adoption of Rule Making*

This rule making was adopted by the Authority on May 3, 2023.

#### *Fiscal Impact*

The legislation did not appropriate any funds to the programs. The fiscal impact of the rule making can only be determined based on the occurrence of a future natural disaster.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

#### *Review by Administrative Rules Review Committee*

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

#### *Effective Date*

This rule making will become effective on July 5, 2023.

The following rule-making action is adopted:

Rescind 265—Chapter 29 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 29 DISASTER RECOVERY HOUSING ASSISTANCE

**265—29.1(16) Definitions.** For purposes of this chapter, unless the context otherwise requires:

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“*Council of governments*” or “*COG*” means an Iowa council of governments as defined by Iowa Code chapter 28H.

## IOWA FINANCE AUTHORITY[265](cont'd)

“*Disaster-affected home*” means a primary residence that is destroyed or damaged due to a natural disaster that occurs on or after June 16, 2021, and that is located in a county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance.

“*Fund*” means the disaster recovery housing assistance fund.

“*Local program administrator*” means the same as defined in subrule 29.2(1).

“*Program*” means the disaster recovery housing assistance program, except for where the term “program” is used in rule 265—29.8(16).

“*Replacement housing*” means housing purchased by a homeowner or leased by a renter needed to replace a disaster-affected home that is destroyed or damaged beyond reasonable repair as determined by a local program administrator.

“*Retention agreement*” means an agreement as described in subrule 29.5(6).

“*Retention period*” means a period of time during which a retention agreement will remain in place. The retention period will begin on the date of a loan closing or the date repairs are completed and will end five years after the beginning of the retention period.

“*State of disaster emergency*” means the same as described in Iowa Code section 29C.6(1).

### **265—29.2(16) Operation of program with local program administrators.**

**29.2(1) *Local program administrators.*** For purposes of this chapter, “local program administrator” means any of the following:

*a.* The cities of Ames, Cedar Falls, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Iowa City, Waterloo, and West Des Moines.

*b.* A council of governments whose territory includes at least one county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance or the eviction prevention program under Iowa Code section 16.57C on or after June 16, 2021.

*c.* A community action agency as defined in Iowa Code section 216A.91 whose territory includes at least one county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance or the eviction prevention program under Iowa Code section 16.57C on or after June 16, 2021.

*d.* A qualified local organization, organized as a nonprofit in the state of Iowa, or a governmental entity that provides housing stability services. Housing stability services may include:

- (1) Housing counseling;
- (2) Legal services related to eviction proceedings and maintaining housing stability; and
- (3) Housing navigation services.

**29.2(2) *Agreements with local government administrators.*** The authority will enter into agreements with local program administrators working in disaster-affected counties for the purpose of reviewing applications for disaster recovery housing assistance and determining whether applicants are eligible for assistance under the program.

**29.2(3) *Review of requests for assistance.*** To be considered for a forgivable loan or grant under the program, a homeowner or renter must register for the disaster case management program established pursuant to Iowa Code section 29C.20B. The disaster case manager may refer the homeowner or renter to the appropriate local program administrator. If referred by disaster case managers, homeowners and renters will submit applications to local program administrators in the manner prescribed by the authority. Local program administrators shall accept and review each application. The authority may award a forgivable loan or grant after a local program administrator has determined the following:

- a.* Whether the applicant is eligible for assistance.
- b.* Whether the requested funds are being requested for a use permitted under the program.
- c.* The amount of financial assistance to be awarded to the homeowner or renter.

**29.2(4) *Administrative fees.*** The authority shall not use more than 5 percent of the moneys in the fund on July 1 of a fiscal year for purposes of administrative costs and other program support during the fiscal year. The authority may share a portion of the funds reserved for its administrative costs with local program administrators to reimburse their administrative costs.

## IOWA FINANCE AUTHORITY[265](cont'd)

**29.2(5) Proceeds of repayments.** All loan amounts repaid to the authority by an eligible homeowner pursuant to this chapter shall be returned to the disaster recovery housing assistance fund created in Iowa Code section 16.57B.

**265—29.3(16) Eligibility.**

**29.3(1) Eligible homeowners.** To be eligible for a forgivable loan under the program, all of the following requirements shall apply:

*a.* The homeowner's disaster-affected home must have sustained damage greater than the damage that is covered by the homeowner's property and casualty insurance policy insuring the home plus any other state or federal disaster-related financial assistance that the homeowner is eligible to receive.

*b.* A local official must either deem the disaster-affected home suitable for rehabilitation or damaged beyond reasonable repair.

*c.* The disaster-affected home is not eligible for buyout by the county or city where the disaster-affected home is located, or the disaster-affected home is eligible for a buyout by the county or city where the disaster-affected home is located but the homeowner is requesting a forgivable loan for the repair or rehabilitation of the homeowner's disaster-affected home in lieu of a buyout.

*d.* Assistance under the program must not duplicate benefits provided by any local, state, or federal disaster recovery assistance program.

*e.* A homeowner must be referred to the authority or to a local program administrator to be considered for a financial assistance award.

**29.3(2) Eligible renters.** To be eligible for a grant under the program, all of the following requirements shall apply:

*a.* A local program administrator either deems the disaster-affected home of the renter suitable for rehabilitation but unsuitable for current short-term habitation, or the disaster-affected home is damaged beyond reasonable repair.

*b.* Assistance under the program must not duplicate benefits provided by any local, state, or federal disaster recovery assistance program.

*c.* A renter must be referred to the authority or to a local program administrator to be considered for a financial assistance award.

*d.* A renter must be a party to a written lease.

*e.* The landlord must not reside at the same address as the eligible renter.

**29.3(3) Registration required.** To be considered for a forgivable loan or grant under the program, a homeowner or renter must register for the disaster case management program established pursuant to Iowa Code section 29C.20B. The disaster case manager may refer the homeowner or renter to the appropriate local program administrator.

**265—29.4(16) Eligible uses of funds.**

**29.4(1) Forgivable loans.** The authority may award a forgivable loan to an eligible homeowner for any of the following purposes:

*a.* Repair or rehabilitation of the disaster-affected home.

*b.* Down payment assistance on the purchase of replacement housing, and the cost of reasonable repairs to be performed on the replacement housing to render the replacement housing decent, safe, sanitary, and in good repair. For purposes of this paragraph, "decent, safe, sanitary, and in good repair" means the same as described in 24 CFR §5.703. The amount of down payment assistance that may be awarded to an eligible homeowner must not exceed 25 percent of the purchase price of the home being purchased plus any amount allowed for repairs, or \$50,000, whichever is less.

(1) Replacement housing shall not be located in a 100-year floodplain.

(2) For purposes of calculating the amount of down payment assistance available to the eligible homeowner, the amount of the down payment assistance will be reduced by the amount of any disaster compensation received by the eligible homeowner in excess of any amount necessary to pay off a mortgage or real estate purchase contract on the disaster-affected home.

## IOWA FINANCE AUTHORITY[265](cont'd)

(3) As a condition of receiving down payment assistance, the eligible homeowner must agree that any disaster compensation received subsequent to the closing of the forgivable loan, if not applied toward repayment of a mortgage on the disaster-affected home, shall be used by the eligible homeowner to pay down the balance of the forgivable loan outstanding at the time the eligible homeowner receives such disaster compensation.

(4) An eligible homeowner shall not use the assistance allowed under this paragraph for the purchase of more than one home.

(5) Replacement housing must be used as the eligible homeowner's primary residence.

**29.4(2) Grants.** The authority may award a grant to an eligible renter to provide short-term financial assistance for the payment of rent for replacement housing, pursuant to the limitations set forth in subrule 29.6(1).

**265—29.5(16) Loan terms.** Loans made under the program shall, at a minimum, contain the following terms:

**29.5(1) Five-year term.** The duration of the loan will be for a term of five years.

**29.5(2) Amount.** The maximum amount of a loan made under this program shall be \$50,000.

**29.5(3) Interest.** Loans made pursuant to the program shall bear no interest.

**29.5(4) Forgivability.** Loans made pursuant to the program will be forgiven and the principal amount of the loan reduced by one-sixtieth of the initial loan amount for each full month of the retention period in which the homeowner is not in default pursuant to the loan agreement, beginning on the date of the final disbursement of forgivable loan proceeds.

**29.5(5) Repayment due upon sale of home.** If a homeowner who has been awarded a forgivable loan sells a disaster-affected home or replacement housing for which the homeowner received the forgivable loan prior to the end of the loan term, the remaining principal on the forgivable loan shall be due and payable upon the sale of the home.

**29.5(6) Retention agreement.** Each loan made pursuant to this program shall be secured by a retention agreement that shall constitute a lien on the title of the real property for which the forgivable loan is made until such time as the forgivable loan has either been fully forgiven or paid in full. However, if an eligible homeowner receives a buyout of the disaster-affected home from the hazard mitigation grant program established in Iowa Code chapter 29C or any other funding source, the receipt of the buyout will not trigger a repayment of assistance received under subrule 29.4(1).

**29.5(7) General conditions of assistance.**

*a.* If an eligible homeowner receives other disaster compensation after a forgivable loan is awarded, the authority may require repayment of some or all of the forgivable loan based on the amount of disaster compensation received and review for any duplication of benefits.

*b.* Any home to be purchased, repaired or rehabilitated using assistance under the program must be in compliance with all applicable state and local laws, rules and ordinances. To be eligible for assistance, the home must be in compliance as of the time of closing in the case of purchases, and as of the date of the final disbursement of forgivable loan proceeds in the case of repair or rehabilitation.

**265—29.6(16) Grant terms.** Grants made under the program shall be subject to the following terms:

**29.6(1) Award calculation and maximum award.**

*a.* An eligible renter may be awarded up to six months of rent assistance.

*b.* An eligible renter may be awarded retroactive rent assistance.

*c.* An eligible renter may be awarded rent assistance to pay late fees provided that the late fees are permissible under Iowa Code chapter 562A or 562B.

*d.* Rent assistance will be calculated by first multiplying the monthly rent amount stated on the eligible renter's lease by the number of months for which assistance is needed, and then adding any eligible retroactive rent assistance and late fees.

*e.* The amount of monthly rent assistance used in calculating the award must not exceed the amount stated on the eligible renter's lease.

*f.* The maximum allowable rent assistance that may be awarded must not exceed the lesser of:

## IOWA FINANCE AUTHORITY[265](cont'd)

(1) The sum of the amount stated on the eligible renter's lease multiplied by six months, plus late fees; or

(2) \$5,000.

**29.6(2) Priority of awards.** The authority may prioritize awards of rent assistance to eligible renters earning 80 percent or less of the area median income for the county where the replacement housing is located.

**29.6(3) Disbursement.** The authority will disburse rent assistance only after a complete application has been received, an award has been approved by the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses. Disbursements will be paid directly to the eligible renter's landlord, unless the authority determines that payment to the landlord is not feasible. If the authority determines it is not feasible to pay the eligible renter's landlord directly, the authority may disburse payment directly to the eligible renter.

**265—29.7(16) Reporting.** A local program administrator working with the authority to administer assistance provided under rule 265—29.4(16) will submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the general assembly or the governor's office.

**265—29.8(16) Eviction prevention program.**

**29.8(1) Purpose.** The authority shall establish and administer an eviction prevention program. Under the eviction prevention program, the authority shall award grants to eligible renters and to eviction prevention partners for purposes of this rule. Grants may be awarded upon a state of disaster emergency proclamation by the governor that authorizes the eviction prevention program. Eviction prevention assistance shall be paid out of the fund established in Iowa Code section 16.57B.

**29.8(2) Rent assistance.**

*a.* Grants awarded to eligible renters pursuant to this subrule shall be used for short-term financial rent assistance to keep eligible renters in their current residences.

*b.* For the purposes of this subrule, "eligible renter" means a renter whose income meets the qualifications of the program, who is at risk of eviction, and who resides in a county that is the subject of a state of disaster emergency proclamation by the governor that authorizes the eviction prevention program and meets the following requirements:

(1) To meet the income qualifications of the eviction prevention program established in this rule, a renter's household income must not exceed 80 percent of the area median income as published annually by the U.S. Department of Housing and Urban Development (HUD) for the county in which the rental unit is located.

(2) A renter must be a party to a written lease.

(3) The landlord must not reside at the same address as the eligible renter.

*c.* An eligible renter may receive rent assistance subject to the following limitations:

(1) An eligible renter may be awarded up to six months of rent assistance.

(2) An eligible renter may be awarded retroactive rent assistance.

(3) An eligible renter may be awarded rent assistance to pay late fees provided that the late fees are permissible under Iowa Code chapter 562A or 562B.

(4) Rent assistance will be calculated by first multiplying the monthly rent amount stated on the eligible renter's lease by the number of months for which assistance is needed, and then adding any eligible retroactive rent assistance and late fees.

(5) The amount of monthly rent assistance used in calculating the award must not exceed the amount stated on the eligible renter's lease.

(6) The maximum allowable rent assistance that may be awarded must not exceed the lesser of the sum of the amount stated on the eligible renter's lease multiplied by six months plus late fees or \$5,000.

*d.* A renter will apply for assistance under this rule in the form and manner required by the authority.



## IOWA FINANCE AUTHORITY[265](cont'd)

*e.* The authority will disburse rent assistance under this paragraph only after a complete application has been received, an award has been approved by the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses. Disbursements will be paid directly to the eligible renter's landlord, unless the authority determines that payment to the landlord is not feasible. If the authority determines it is not feasible to pay the eligible renter's landlord directly, the authority may disburse payment directly to the eligible renter.

**29.8(3) Eviction prevention partners.**

*a.* Grants awarded to eviction prevention partners pursuant to this rule shall be used to pay for rent or housing stability services provided to eligible renters for the purpose of preventing the eviction of eligible renters.

*b.* For the purposes of this subrule, "eviction prevention partner" means a local program administrator as defined in subrule 29.2(1).

*c.* The authority may enter into an agreement with one or more eviction prevention partners to administer the program. The authority will prepare an agreement for each grant awarded to an eviction prevention partner. The agreement will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this rule.

*d.* Any substantive change to an agreement will require an amendment to the agreement. Amendments shall be requested in writing. No amendment shall be valid unless approved by the authority.

*e.* The authority will disburse funds under this paragraph only after an award has been approved by the authority and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses.

*f.* An eviction prevention partner receiving an award under this rule shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the general assembly or the governor's office.

**265—29.9(16) Financial assistance subject to availability of funding.** All financial assistance awarded pursuant to this chapter shall be subject to funds being made available to the authority for the purpose of awarding financial assistance to eligible homeowners and eligible renters in disaster-affected counties.

These rules are intended to implement Iowa Code sections 16.57A, 16.57B and 16.57C.

[Filed 5/3/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7025C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to Controlled Substances Act registration**

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 124.301.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 124.302.

PHARMACY BOARD[657](cont'd)

### *Purpose and Summary*

This rule making authorizes the Board, on a case-by-case basis, to issue a Controlled Substances Act registration to a business location when it would be impractical to require each individual practitioner who administers or dispenses controlled substances to separately register at the business location. Examples of such business locations include, but are not limited to, ambulatory surgical centers, dialysis centers, federally qualified health centers, and standalone clinics associated with a hospital system.

### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6906C**. The Board received one comment in support of the rule making. No changes from the Notice have been made.

### *Adoption of Rule Making*

This rule making was adopted by the Board on May 2, 2023.

### *Fiscal Impact*

This rule making has minimal fiscal impact to the State of Iowa. The number of business locations that would obtain a registration, at \$90 for a two-year registration, is unknown but expected to be fewer than ten per year.

### *Jobs Impact*

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

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

### *Review by Administrative Rules Review Committee*

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

### *Effective Date*

This rule making will become effective on July 5, 2023.

The following rule-making action is adopted:

Adopt the following new rule 657—10.4(124):

**657—10.4(124) Who may register.** On a case-by-case basis, the board may issue a registration to a business location not listed in rule 657—10.3(124) if it would be impractical to require each individual practitioner who administers or dispenses controlled substances to separately register at the business location. Examples of business locations that may be eligible for a registration pursuant to this rule include, but are not limited to, ambulatory surgical centers as defined in Iowa Code section 147.163,

PHARMACY BOARD[657](cont'd)

dialysis centers, federally qualified health centers, and standalone clinics associated with a hospital system.

[Filed 5/4/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7026C**

## **PHARMACY BOARD[657]**

**Adopted and Filed**

### **Rule making related to controlled and precursor substances**

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," and Chapter 12, "Precursor Substances," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124B.2(2).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124B.2(2).

#### *Purpose and Summary*

This rule making temporarily adds four substances (three stimulants and one opiate) to Schedule I, excludes one substance from Schedule II, and adds one substance as a precursor substance to the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6874C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on May 2, 2023.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

## PHARMACY BOARD[657](cont'd)

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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend subrule 10.39(7) as follows:

**10.39(7)** Amend Iowa Code section 124.204(6) by adding the following new ~~paragraph~~ paragraphs:

- ~~i. 4,4'-Dimethylaminorex. Other names: 4,4'-DMAR;  
4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine;  
4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine.~~  
j. Amineptine (7-[(10,11-dihydro-5H-dibenzo[alpha,delta]cyclohepten-5-yl)amino]heptanoic acid).  
k. Mesocarb (N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate).  
l. Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2-amine).

ITEM 2. Adopt the following **new** subrule 10.39(9):

**10.39(9)** Amend Iowa Code section 124.206(2) "d" by adding the following new subparagraph:

(3) [18\F]FP-CIT.

ITEM 3. Adopt the following **new** subrule 10.39(10):

**10.39(10)** Amend Iowa Code section 124.204(2) by adding the following new paragraph:

cn. 1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol. Other name: Zipeprol.

ITEM 4. Amend subrule 12.1(1) as follows:

**12.1(1)** Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

- ~~ae. 3,4-MDP-2-P-methyl-glycidate (PMK-glycidate) and its optical and geometric isomers.  
af. 3,4-MDP-2-P-methyl-glycidic acid (PMK-glycidic acid) and its salts, optical and geometric isomers, and salts of isomers.  
ag. Alpha-phyllacetamide (APAA) and its optical isomers.  
ah. No change.  
ai. 1-boc-4-AP (tert-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts.~~

[Filed 5/4/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7027C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to licensing regulation, veterans and military spouses**

The Board of Pharmacy hereby amends Chapter 33, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in 2022 Iowa Acts, Senate File 2383.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

PHARMACY BOARD[657](cont'd)

*Purpose and Summary*

These amendments implement the licensure-related provisions of 2022 Iowa Acts, Senate File 2383, revising the requirements and parameters of licensure for veterans and active duty military spouses.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 8, 2023, as **ARC 6944C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on May 2, 2023.

*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 can be determined because the Board's current license transfer process provides an opportunity for a temporary license in accordance with Senate File 2383.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on July 5, 2023.

The following rule-making action is adopted:

- ITEM 1. Adopt the following **new** definition of “Spouse” in rule **657—33.1(272C)**:  
“*Spouse*” means a spouse of an active duty member of the military forces of the United States.
- ITEM 2. Amend rule 657—33.3(272C) as follows:

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

**33.3(1)** No change.

**33.3(2) Application requirements.** Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other

## PHARMACY BOARD[657](cont'd)

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

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

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

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

*a.* If the applicant has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status. The board may issue a ~~provisional temporary~~ 90-day license in order for a pharmacist who has applied for license transfer pursuant to rule 657—2.9(147,155A) to take and pass the multistate pharmacy jurisprudence examination (MPJE), Iowa Edition.

*b.* If additional ~~experience or education or training~~ is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a ~~provisional temporary~~ license or registration for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, and safety of the public unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a ~~provisional temporary~~ license or registration is granted.

*c.* If a request for a ~~provisional temporary~~ license or registration is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional temporary~~ license or registration.

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

ITEM 3. Amend rule 657—33.4(272C) as follows:

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

PHARMACY BOARD[657](cont'd)

service applicant, ~~or~~ veteran, or spouse in connection with a contested case conducted pursuant to this chapter.

[Filed 5/4/23, effective 7/5/23]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7022C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

**Rule making related to licensure**

The Board of Mortuary Science hereby amends Chapter 101, "Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 147.44.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 147 and 156.

*Purpose and Summary*

Iowa Code section 17A.7 requires each state agency to conduct a comprehensive review of all of the agency's rules to eliminate outdated and redundant rules. These amendments update the Board's rules to align with current Professional Licensure Division practices. The amendments remove the notarization requirement for foreign-trained funeral directors and update the process for verifying endorsement applications.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6663C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Division on March 2, 2023.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend paragraph **101.2(3)“b”** as follows:

*b.* Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

ITEM 2. Amend subrule 101.6(3), introductory paragraph, as follows:

**101.6(3)** The applicant shall provide verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

[Filed 5/1/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

**ARC 7032C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to licensing regulation, fees, veterans and military spouses**

The Public Health Department hereby amends Chapter 131, “Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations,” and Chapter 196, “Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 147A and 272C and 2022 Iowa Acts, Senate File 2383.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

*Purpose and Summary*

This rule making implements the licensure-related provisions of 2022 Iowa Acts, Senate File 2383, by revising the requirements for licensure by verification and updating the requirements and parameters of licensure for veterans and their spouses.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 8, 2023, as **ARC 6942C**. No public comments were received. No changes from the Notice have been made.



PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on May 10, 2023.

*Fiscal Impact*

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

*Jobs Impact*

After analysis and review of this rule making, there may be a positive impact on jobs since it would streamline and remove some of the requirements related to licensure by verification. Additionally, it would clearly provide an alternative pathway to licensure of spouses of veterans when moving to Iowa.

*Waivers*

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

*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 5, 2023.

The following rule-making action is adopted:

ITEM 1. Amend subrule 131.3(6) as follows:

**131.3(6)** Fees may be waived in accordance with provisions in Iowa Code chapter 272C for individuals demonstrating ~~income~~ the following:

*a.* Income that does not exceed 200 percent of the federal poverty level;

*b.* Initial licensing fees and one renewal fee for an applicant who has been honorably or generally discharged from federal active duty or national guard duty, as those terms are defined in Iowa Code section 29A.1, who would otherwise be charged within five years of the discharge.

ITEM 2. Amend subrules 196.3(3) to 196.3(6) as follows:

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

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

**196.3(5)** If the licensing authority determines that the ~~licensure requirements~~ scope of practice in the jurisdiction in which the veteran or spouse is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the licensing authority shall promptly inform the applicant of the

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

additional ~~experience, education, or examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a ~~provisional~~ temporary license is inconsistent with the licensing authority's enabling statute, the following shall apply:

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

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

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

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

**196.3(6)** A veteran or spouse who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

[Filed 5/10/23, effective 7/5/23]

[Published 5/31/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.

AGENCY	RULE	DELAY
Natural Resource Commission[571]	108.1 to 108.10 [IAB 5/3/23, <b>ARC 7010C</b> ]	Effective date of June 7, 2023, delayed 70 days by the Administrative Rules Review Committee at its meeting held May 8, 2023. [Pursuant to §17A.8(10)]