



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLIV  
June 1, 2022

NUMBER 24  
Pages 2739 to 2774

## CONTENTS IN THIS ISSUE

Pages 2747 to 2774 include ARC 6330C to ARC 6342C

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Filed, Imported poultry—testing,  
65.11(3) ARC 6336C..... 2760

### ALL AGENCIES

Agency identification numbers..... 2745  
Citation of administrative rules..... 2740  
Schedule for rule making..... 2741

### EDUCATION DEPARTMENT[281]

Filed, Open enrollment—criteria for  
failure to reasonably respond to a  
student’s failure to meet academic  
standards, 17.5(3) ARC 6332C..... 2761

### INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Review of rules, amendments to  
chs 10, 35, 76 ARC 6338C..... 2763

### PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Temporary designation of  
controlled substances, 10.39 ARC 6334C..... 2747  
Notice, Compounding  
practices—records, 20.23 ARC 6333C..... 2748  
Filed, Security; delegation of dispensing;  
controlled substances, 6.7(5),  
8.3(3)“e,” 10.14(2), 10.18(4), 10.19,  
10.20, 10.21(5) ARC 6330C..... 2765  
Filed, Veterinary compounded  
preparations for office use—dispensing  
to owner of veterinary patient to treat  
immediate medical need, 20.2, 20.15  
ARC 6331C..... 2770

### PUBLIC HEARINGS

Summarized list..... 2744

### PUBLIC SAFETY DEPARTMENT[661]

Notice, Local fire protection and  
emergency medical services grant  
program, 265.51 ARC 6335C..... 2750

### SECRETARY OF STATE[721]

Notice, Proposed constitutional  
amendment—right to keep and bear  
arms, 21.200(4) ARC 6341C..... 2751

### TRANSPORTATION DEPARTMENT[761]

Notice, Motor vehicle leasing  
licenses—contact information,  
definition of “engage in the business,”  
430.1 ARC 6342C..... 2753  
Filed, Driver education—time allowance  
for laboratory instruction, 634.4(2)“b,”  
634.11(1) ARC 6337C..... 2772

### UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Access to affiliate records,  
requirements for annual filings, and  
asset and service transfers—review of  
rules, 31.1, 31.3, 31.5(2) ARC 6339C..... 2755  
Notice, Nonutility  
activities—recordkeeping and cost  
allocations, amendments to ch 33  
ARC 6340C..... 2757

## 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 2022

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 10, 2022	June 29, 2022
1	Wednesday, June 22, 2022	July 13, 2022
2	Friday, July 8, 2022	July 27, 2022

**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 14, 2022, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov). The following rules will be reviewed:

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

Imported poultry—testing, 65.11(3) Filed **ARC 6336C** ..... 6/1/22

### **CORRECTIONS DEPARTMENT[201]**

Organization, procedures, institutions administration—five-year review of rules, amendments to chs 1, 20 Notice **ARC 6324C** ..... 5/18/22

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

Economic development programs—funding, 7.6(1), 42.2(2), 42.3(1)“b,” 81.3(3), 220.4(1)“b,” 221.2, 221.4(1)“c” Filed **ARC 6319C** ..... 5/18/22

Removal of discontinued programs, rescind chs 9, 11, 25, 28 to 30, 33, 53, 57, 58, 61 to 64, 67, 69, 74, 80, 103, 107, 109, 111, 311 to 314, 402 Filed **ARC 6320C** ..... 5/18/22

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

Open enrollment—criteria for failure to reasonably respond to a student’s failure to meet academic standards, 17.5(3) Filed **ARC 6332C** ..... 6/1/22

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

Declaratory orders—five-year review of rules, 5.1, 5.5, 5.6, 5.9(2), 5.10, 5.11 Notice **ARC 6328C** ..... 5/18/22

Community mental health centers, amendments to ch 24 Filed **ARC 6321C** ..... 5/18/22

Food assistance program—change of name to supplemental nutrition assistance program (SNAP); family self-sufficiency grants program, amendments to ch 47 Notice **ARC 6327C** ..... 5/18/22

Foster home insurance fund—auto damage by foster children, 158.3(1)“b” Notice **ARC 6329C** ..... 5/18/22

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

COMMERCE DEPARTMENT[181]“umbrella”  
Review of rules, amendments to chs 10, 35, 76 Filed **ARC 6338C** ..... 6/1/22

### **NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”  
Telehealth—standards of practice for registered nurses and licensed practical nurses, 6.1, 6.4 Filed **ARC 6316C** ..... 5/18/22

Telehealth—standards of practice for advanced registered nurse practitioners, 7.1, 7.9 Filed **ARC 6317C** ..... 5/18/22

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

PUBLIC HEALTH DEPARTMENT[641]“umbrella”  
Security; delegation of dispensing; controlled substances, 6.7(5), 8.3(3)“e,” 10.14(2), 10.18(4), 10.19, 10.20, 10.21(5) Filed **ARC 6330C** ..... 6/1/22

Temporary designation of controlled substances, 10.39 Notice **ARC 6334C** ..... 6/1/22

Veterinary compounded preparations for office use—dispensing to owner of veterinary patient to treat immediate medical need, 20.2, 20.15 Filed **ARC 6331C** ..... 6/1/22

Compounding practices—records, 20.23 Notice **ARC 6333C** ..... 6/1/22

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

Center for congenital and inherited disorders, 4.1(1), 4.2, 4.3, 4.7, 4.11 to 4.14 Notice **ARC 6322C** ..... 5/18/22

AIDS drug assistance program (ADAP)—eligibility requirements, 11.43 Notice **ARC 6323C** ..... 5/18/22

Limited radiologic technologist examination; permit holder continuing education, 42.9(2)“e”(3), 42.18(2) Notice **ARC 6325C** ..... 5/18/22

Special supplemental nutrition program for women, infants, and children (WIC) online ordering project, 73.26 Notice **ARC 6326C** ..... 5/18/22

### **PUBLIC SAFETY DEPARTMENT[661]**

Local fire protection and emergency medical services grant program, 265.51 Notice **ARC 6335C** ..... 6/1/22

### **SECRETARY OF STATE[721]**

Proposed constitutional amendment—right to keep and bear arms, 21.200(4) Notice **ARC 6341C** ..... 6/1/22

**TRANSPORTATION DEPARTMENT[761]**

Motor vehicle leasing licenses—contact information, definition of “engage in the business,”

430.1 Notice **ARC 6342C** ..... 6/1/22  
Driver education—time allowance for laboratory instruction, 634.4(2)“b,” 634.11(1) Filed **ARC 6337C**..... 6/1/22**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Access to affiliate records, requirements for annual filings, and asset and service

transfers—review of rules, 31.1, 31.3, 31.5(2) Notice **ARC 6339C** ..... 6/1/22  
Nonutility activities—recordkeeping and cost allocations, amendments to ch 33 Notice **ARC 6340C** ..... 6/1/22**WORKERS’ COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Payroll tax tables, 8.8 Filed **ARC 6318C**..... 5/18/22**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Waylon Brown  
2415 Highway 218  
Osage, Iowa 50461Senator Julian Garrett  
P.O. Box 493  
Indianola, Iowa 50125Senator Jesse Green  
2344 360th Street  
Harcourt, Iowa 50544Senator Robert Hogg  
P.O. Box 1361  
Cedar Rapids, Iowa 52406Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001Jack 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)Representative Mike Boussetot  
Ankeny, Iowa  
House District 37Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585Representative Amy Nielsen  
North Liberty, IowaRepresentative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 50317Representative Mike Sexton  
2202 Ogden Avenue  
Rockwell City, Iowa 50579Michael Boal  
**Administrative Rules Coordinator**  
Governor’s Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone: 515.281.5211

**CORRECTIONS DEPARTMENT[201]**

<p>Organization, procedures, institutions administration—five-year review of rules, amendments to chs 1, 20 IAB 5/18/22 <b>ARC 6324C</b></p>	<p>Via conference call Contact Michael Savala Email: <a href="mailto:michael.savala@iowa.gov">michael.savala@iowa.gov</a></p>	<p>June 7, 2022 9 to 10 a.m. (If requested)</p>
--	---	---

**PHARMACY BOARD[657]**

<p>Compounding practices—records, 20.23 IAB 6/1/22 <b>ARC 6333C</b></p>	<p>Health Professions Board Room 400 S.W. 8th Street, Suite H Des Moines, Iowa</p>	<p>June 23, 2022 10 a.m.</p>
---	--	----------------------------------

**TRANSPORTATION DEPARTMENT[761]**

<p>Motor vehicle leasing licenses—contact information, definition of “engage in the business,” 430.1 IAB 6/1/22 <b>ARC 6342C</b></p>	<p>Via conference call Contact Tracy George Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a></p>	<p>June 23, 2022 10 a.m. (If requested)</p>
--	---	---

**UTILITIES DIVISION[199]**

<p>Access to affiliate records, requirements for annual filings, and asset and service transfers—review of rules, 31.1, 31.3, 31.5(2) IAB 6/1/22 <b>ARC 6339C</b></p>	<p>Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa</p>	<p>June 23, 2022 10 a.m. to 12 noon</p>
<p>Nonutility activities—recordkeeping and cost allocations, amendments to ch 33 IAB 6/1/22 <b>ARC 6340C</b></p>	<p>Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa</p>	<p>June 23, 2022 1:30 to 3:30 p.m.</p>

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]  
    Energy and Geological Resources Division[565]  
    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]



## ARC 6334C

## PHARMACY BOARD[657]

## Notice of Intended Action

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

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

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 124.201.

*Purpose and Summary*

This proposed rule making temporarily places seven substances (synthetic opioid-related substances) into Schedule I and one substance (a new U.S. Food and Drug Administration (FDA)-approved medication to treat insomnia) into Schedule IV of the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: [sue.mears@iowa.gov](mailto:sue.mears@iowa.gov)

*Public Hearing*

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

## PHARMACY BOARD[657](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Rescind subrule 10.39(2) and adopt the following **new** subrule in lieu thereof:

**10.39(2)** Amend Iowa Code section 124.204(9) by adding the following new paragraphs:

y. 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Butonitazene.

z. 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: Etodesnitazene; etazene.

aa. N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Flunitazene.

ab. N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Metodesnitazene.

ac. N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Metonitazene.

ad. 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: N-pyrrolidino etonitazene; etonitazepyne.

ae. N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Protonitazene.

ITEM 2. Adopt the following **new** subrule 10.39(8):

**10.39(8)** Amend Iowa Code section 124.210(3) by adding the following new paragraph:

bg. Daridorexant.

**ARC 6333C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

**Proposing rule making related to records of compounded preparations and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 20, "Compounding Practices," Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 147.76.

*Purpose and Summary*

This proposed rule making requires documentation of all ingredient sources, lot numbers, and expiration dates and the steps involved in the compounding process for all nonsterile and sterile compounded preparations. This rule making also separates rule 657—20.23(124,126,155A) into subrules for clarity.

## PHARMACY BOARD[657](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: [sue.mears@iowa.gov](mailto:sue.mears@iowa.gov)

*Public Hearing*

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

June 23, 2022  
10 a.m.

Health Professions Board Room  
400 S.W. 8th Street, Suite H  
Des Moines, Iowa 50309

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule 657—20.23(124,126,155A) as follows:

**657—20.23(124,126,155A) Records.**

**20.23(1) Retention.** All records required by this chapter shall be retained as original records of the pharmacy or outsourcing facility and shall be readily available for inspection and photocopying by agents of the board or other authorized authorities for at least two years following the date of the record.

**20.23(2) Required elements.** Records shall allow for the identification of ~~all~~ the following:

a. All ingredients used in compounding, ~~all~~ including source, lot number, and expiration date.

PHARMACY BOARD[657](cont'd)

b. The compounding steps involved in the preparation.

c. All personnel involved in compounding, and all.

d. All personnel involved in reviewing compounded preparations.

**20.23(3) Batch disbursements.** The pharmacy or outsourcing facility shall maintain records documenting the disbursements from each batch of a compounded preparation.

**ARC 6335C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rule making related to local fire protection and emergency medical service providers grant program and providing an opportunity for public comment**

The State Fire Marshal Division hereby proposes to amend Chapter 265, “Consumer Fireworks Sales Licensing and Safety Standards,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 100.19(8).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 100.19.

#### *Purpose and Summary*

This proposed rule making modifies the Local Fire Protection and Emergency Medical Service Providers Grant Program pursuant to the passage of 2021 Iowa Acts, House File 761. This rule making allows the Division to bestow grants in the form of equipment and not just funds.

#### *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 Division for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

Dan Wood  
 Department of Public Safety  
 Oran Pape State Office Building  
 215 East 7th Street  
 Des Moines, Iowa 50319  
 Phone: 515.725.6150  
 Email: [wood@dps.state.ia.us](mailto:wood@dps.state.ia.us)

PUBLIC SAFETY DEPARTMENT[661](cont'd)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 265.51(3) as follows:

**265.51(3) Authorized purposes of grant funds.** The grant funds in the local fire protection and emergency medical service providers grant program may ~~only~~ be used for the following in order of priority:

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.
- c. To purchase necessary enforcement, protection, or emergency response equipment.

ITEM 2. Renumber subrule **265.51(6)** as **265.51(7)**.

ITEM 3. Adopt the following **new** subrule 265.51(6):

**265.51(6) Award of tangible property.** Should, at the state fire marshal’s sole discretion, it better serve the purpose of the grant program for the state fire marshal to award tangible property, such as equipment, rather than funds, the state fire marshal has the authority to award tangible property purchased with grant funds rather than disperse grant funds to the applicants.

**ARC 6341C****SECRETARY OF STATE[721]****Notice of Intended Action****Proposing rule making related to constitutional amendment  
and providing an opportunity for public comment**

The Secretary of State hereby proposes to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 49.44.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, chapter 185.

*Purpose and Summary*

The purpose of the proposed subrule is to provide voters and other interested persons with the opportunity to review the summary to be printed on the ballot for the proposed constitutional amendment that is to be voted upon at the November 8, 2022, General Election. Because the only purpose for

SECRETARY OF STATE[721](cont'd)

this Notice is to solicit public comments, following the comment period the Notice will be terminated without adopting the subrule.

*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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Secretary of State no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

Molly Widen  
Office of the Iowa Secretary of State  
Lucas State Office Building, First Floor  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.281.5864  
Email: [molly.widen@sos.iowa.gov](mailto:molly.widen@sos.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** subrule 21.200(4):

**21.200(4)** A proposed constitutional amendment was passed by the Eighty-eighth General Assembly as Senate Joint Resolution 18, and by the Eighty-ninth General Assembly as Senate Joint Resolution 7. This proposed amendment will be voted upon at the general election to be held on November 8, 2022.

The summary that is proposed by the Secretary of State appears below:

SECRETARY OF STATE[721](cont'd)

Summary: Provides that the right of the people of Iowa to keep and bear arms shall not be infringed. The sovereign state of Iowa affirms and recognizes the right to keep and bear arms as a fundamental right. Any and all restrictions of this right shall be subject to strict scrutiny.

**ARC 6342C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to motor vehicle leasing licenses  
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 430, “Motor Vehicle Leasing Licenses,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321F.11.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 321F.

*Purpose and Summary*

This proposed rule making relates to motor vehicle leasing licenses, which is a requirement under Iowa Code chapter 321F when a person is engaged in the business of leasing motor vehicles in this state.

The proposed amendments correct the Department’s contact information and amend the definition of “engage in the business” to mean leasing two or more motor vehicles subject to registration if a lessee is a resident of Iowa and first takes possession of the vehicle in Iowa, or if the lessor’s business address is located in Iowa. The proposed amendments within the definition further state that a person is not considered to be engaged in the business if the business address is located outside Iowa and the lessee first takes possession of the vehicle outside Iowa. The current definition is not sufficiently clear as to which types of transactions count as being engaged in the business of leasing motor vehicles and are thus subject to the motor vehicle leasing license requirements.

*Fiscal Impact*

The fiscal impact cannot be determined. Iowa Code section 321F.4 requires a person applying for a motor vehicle leasing license to pay a \$30 application fee for a two-year period of license validity. In fiscal year 2021, the Department issued 53 new leasing licenses, and in calendar year 2020, the Department renewed 426 existing leasing licenses. While this proposed rule making seeks to clarify what constitutes being engaged in the business of leasing motor vehicles, the Department is unable to discern at this time whether this change will result in the Department issuing any more or any fewer leasing licenses.

*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 761—Chapter 11.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Government and Community Relations  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on June 23, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on June 21, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule 761—430.1(321F) as follows:

**761—430.1(321F) General.**

**430.1(1) Information.** Information and blank forms relating to this chapter may be obtained from ~~and completed forms shall be submitted to the Office of Vehicle and Motor Carrier Services, Vehicle Division, Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278; by telephone at (515)237-3110; by email at [vcusto@iowadot.us](mailto:vcusto@iowadot.us); or from the department's website at [www.iowadot.gov](http://www.iowadot.gov).~~ Completed forms shall be submitted to the Motor Vehicle Division, Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278.

**430.1(2) Definition.** "*Engage in the business*" means leasing two or more motor vehicles that are subject to registration in a 12-month period if the lessee is a resident of this state and first takes possession of the vehicle in this state, or if the lessor's business address is located in this state. A person shall not be considered to be engaged in the business if the ~~lease for a vehicle subject to registration was originally created in a jurisdiction outside the state of Iowa~~ business address is located outside of this state and the lessee first takes possession of the motor vehicle outside of this state.



**ARC 6339C****UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rule making related to review of rules  
and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 31, “Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 476.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.72 and 476.74.

*Purpose and Summary*

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules. Prior to submission of the Notice of Intended Action (NOIA), the Board shared a draft version of the NOIA with stakeholders and invited comments. The Board considered the stakeholder comments in preparing the proposed amendments included in this NOIA.

The Board issued an order on May 13, 2022, commencing this rule making. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under RMU-2021-0031.

*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*

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

UTILITIES DIVISION[199](cont'd)

*Public Hearing*

An oral presentation at which persons may present their views orally or in writing will be held as follows:

June 23, 2022  
10 a.m. to 12 noon

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 199—31.1(476) as follows:

**199—31.1(476) Applicability and definition of terms.** This chapter applies to all rate-regulated gas, or electric, water, sanitary sewage, or storm water drainage service public utilities. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Fully distributed cost” is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“Net book value” means the original purchase price minus depreciation.

ITEM 2. Amend rule 199—31.3(476) as follows:

**199—31.3(476) Annual filing.**

**31.3(1)** On or before June 30 of each year, all public utilities shall file with the board the following information:

*a.* An executive summary of each new or revised contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include: the document number, of the contract or agreement, if one is assigned during the public utility's ordinary course of business; the start and end date of the contract; the providing affiliate; the receiving affiliate; the total estimated dollar value; the dollar amount reported for the calendar year; and a description of the service or goods covered.

*b.* Verified copies of contracts, arrangements, or other similar transactions between the public utility and an affiliate shall be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code ~~subsections~~ sections 476.74(1) to 476.74(4).

**31.3(2)** Contracts, arrangements, or other similar transactions with an affiliate where the consideration is ~~not in excess of \$50,000 or 5 percent of the capital equity of the utility, whichever is smaller,~~ less than \$250,000 annually are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each contract, arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate shall be identified separately.

## UTILITIES DIVISION[199](cont'd)

**31.3(3)** After an initial filing under rule 199—31.3(476), a public utility shall file only new contracts or arrangements or other similar transactions and modifications or amendments to existing contracts or arrangements, or other similar transactions on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility shall file a statement to that effect.

**31.3(4)** If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility and an affiliate, the public utility shall notify the board in writing within ~~30~~ 60 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board.

ITEM 3. Amend subrule 31.5(2) as follows:

**31.5(2) Confidential treatment.** When a public utility files contracts, arrangements, or other similar transactions with the board, all such contracts or arrangements for which confidential treatment is sought shall be clearly marked and are subject to 199—subparagraph 1.9(5)“c”(18). ~~In addition to the requirements set out in 199—1.9(22), the public utility shall provide, at the time of filing with the board, a list designating the contracts, arrangements, and other similar transactions, if any, for which confidential treatment is sought. The public utility shall designate where and to whom contracts, arrangements, and other similar transactions determined by the board to be confidential shall be returned.~~

**ARC 6340C**

## UTILITIES DIVISION[199]

### Notice of Intended Action

#### **Proposing rule making related to recordkeeping and cost allocations in nonutility activities and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 33, “Nonutility Activities—Record Keeping and Cost Allocations,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.72 and 476.78 to 476.80.

#### *Purpose and Summary*

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules. Prior to submission of the Notice of Intended Action, the Board shared a draft version of the Notice with stakeholders and invited comments. The Board considered the stakeholder comments in preparing the proposed amendments included in this Notice.

The Board issued an order on May 13, 2022, commencing this rule making. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under RMU-2021-0033.

#### *Fiscal Impact*

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

UTILITIES DIVISION[199](cont'd)

*Jobs Impact*

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

*Waivers*

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 33.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 21, 2022. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

*Public Hearing*

An oral presentation at which persons may present their views orally or in writing will be held as follows:

June 23, 2022  
1:30 to 3:30 p.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **199—Chapter 33**, title, as follows:

~~NONUTILITY ACTIVITIES SERVICES—RECORD-KEEPING~~ RECORDKEEPING  
AND COST ALLOCATIONS

ITEM 2. Amend rule 199—33.1(476) as follows:

**199—33.1(476) Applicability.** This chapter applies to all rate-regulated ~~gas or electric~~ public utilities.

ITEM 3. Amend rule **199—33.2(476)**, definition of “Filing threshold,” as follows:

“*Filing threshold*” means that the summation of ~~a an electric or gas utility’s~~ revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility’s operating revenues recorded in FERC account 400, or the summation of a water utility’s revenues from nonutility service equals 3 percent of the utility’s

## UTILITIES DIVISION[199](cont'd)

operating revenues. The revenues in these accounts will be as recorded in the annual FERC Form 1 for electric and combination utilities and FERC Form 2 for gas utilities.

ITEM 4. Amend subrule 33.3(1) as follows:

**33.3(1) *Separate records***. A rate-regulated ~~gas or electric~~ public utility receiving revenues for providing nonutility service shall keep and render to the board separate records on the nonutility service.

ITEM 5. Amend rule 199—33.5(476) as follows:

**199—33.5(476) Cost allocation manuals**. Every rate-regulated ~~gas or electric~~ public utility equaling or exceeding the filing threshold in any calendar year shall file with the board a cost allocation manual on or before September 1 of the following year. If the utility has not changed its cost allocation manual since the last filing ~~on September 1~~, the utility shall file a letter with the board to that effect. In the event the utility has made only minor changes to its manual to reflect new accounts or new affiliates or has modified language, the utility may file only the pages affected together with a cover letter explaining the pages being filed. A utility excused from filing a cost allocation manual for any of the foregoing reasons shall comply with the other requirements of this rule.

**33.5(1) *Contents of manuals***. Each cost allocation manual must contain the following information:

*a. Nonutility ~~activities~~ services*. A list, the location, and description of all nonutility ~~activities as defined in Iowa Code section 476.72(3)~~ services.

*b. and c.* No change.

*d. Allocation methodology*. A description of the cost allocation methodology, including an overview, explanation, and justification of the details provided in response to paragraphs “*e*” 33.5(1) “e” through “*h*” below.

*e.* No change.

*f. Accounts and records*. A description of each account and record used by the utility for financial ~~record keeping~~ recordkeeping for nonutility services, including all subaccounts.

*g. Allocation factors*. A paragraph containing, for each allocation factor identified in compliance with paragraph “*e*,” 33.5(1) “e,” an explanation of how the allocation factor is calculated, a description of each study and analysis used in developing the allocation factor, and the frequency with which each allocation factor is recalculated.

*h. to j.* No change.

**33.5(2) *Annual filing and ~~approval~~ acceptance of manuals***. The following procedure shall be used for the annual filing and approval of manuals.

*a.* No change.

*b. Notice*. At the time of the initial filing and whenever a manual is updated, each utility shall mail or deliver a written notice to consumer advocate, local trade associations, and customers who have notified the utility in writing of their interest in the cost allocation manual. Notice to customers may be provided by means agreed to between the public utility and the customer, such as a customer electing to receive electronic notice. The notice shall state that an objection may be filed with the board within 60 days of the filing of the manual with the board. The utility shall promptly provide copies of the manual upon request.

*c. to e.* No change.

**33.5(3) and 33.5(4)** No change.

ITEM 6. Adopt the following new implementation sentence in **199—Chapter 33**:

These rules are intended to implement Iowa Code sections 476.72 through 476.83.

**ARC 6336C**

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

**Adopted and Filed**

**Rule making related to testing imported poultry**

The Agriculture and Land Stewardship Department hereby amends Chapter 65, “Animal and Livestock Importation,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 163.1.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 163.1.

*Purpose and Summary*

Currently, the Department relies on National Poultry Improvement Plan (NPIP) testing standards to control certain poultry diseases to protect flocks in the state. This rule making allows the Department to recognize other programs that are equivalent to the NPIP as meeting the Pullorum-Typhoid and Mycoplasma gallisepticum testing requirements for poultry imports.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 9, 2022, as **ARC 6235C**. One comment was received asking for clarification. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on May 5, 2022.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, 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 6, 2022.

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

The following rule-making action is adopted:

Amend subrule 65.11(3) as follows:

**65.11(3) Testing.**

*a. Pullorum-typhoid test.*

(1) An official negative test for pullorum-typhoid is required within 30 days of importation for domestic fowl or live poultry or for the flock from which hatching eggs originate unless exempted pursuant to 65.11(3) “a”(2).

(2) Exemptions to the test requirements. No test is required for the following:

1. Imported domestic fowl, live poultry or hatching eggs originating from flocks classified under provisions of the NPIP, or an equivalent program as determined by the department, as pullorum-typhoid clean.

2. Exotic birds or other pet birds.

3. Poultry consigned directly to a recognized slaughter establishment.

*b. Mycoplasma gallisepticum test—turkeys.* Live turkeys or turkey hatching eggs for importation must originate from a flock that has been tested annually and can be classified as U.S. mycoplasma gallisepticum clean as provided by the NPIP or an equivalent program as determined by the department. Turkeys consigned directly to a recognized slaughter establishment are not affected by this subrule.

[Filed 5/10/22, effective 7/6/22]

[Published 6/1/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.

**ARC 6332C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

**Rule making related to criteria for late-filed open enrollment**

The State Board of Education hereby amends Chapter 17, “Open Enrollment,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 847.

*Purpose and Summary*

2021 Iowa Acts, House File 847, added an additional reason for late-filed open enrollment: “a consistent failure of the resident district to reasonably respond to a student’s failure to meet basic academic standards after notice provided by a parent or guardian.” House File 847 requires the State Board to “adopt by rule the criteria for determining a resident district’s consistent failure to reasonably respond to a student’s failure to meet basic academic standards.” This rule making adopts such criteria.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 9, 2022, as **ARC 6184C**. A public hearing was held on March 1, 2022, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. Two persons attended, but no one provided comment.

EDUCATION DEPARTMENT[281](cont'd)

The Department received one written comment from the Iowa Association of School Boards, requesting a time frame for subparagraph 17.5(3)“c”(2) and more clarity on what it means to monitor student growth over time. The commenter also requested that the words “but shall not be limited to” in the introductory paragraph of 17.5(3)“c” be removed.

Whether a district reasonably failed to respond to a student’s consistent failure to make progress toward academic standards is dependent on the facts of each student’s case. For that reason, the Department is unable to state how much growth is enough or how progress should be monitored. Expected growth and how that growth will be monitored are best committed to local discretion in light of a particular student’s circumstances. No changes were made based on the comment.

The Department concludes that some time frame is necessary to provide some structure and certainty to students, parents, educators, and school boards. While the commenter specifically asked for a time frame in subparagraph 17.5(3)“c”(2), the time frame ought to apply to the entire paragraph. All three subparagraphs of paragraph 17.5(3)“c” are elements of providing appropriate instruction: providing evidence-based instruction, monitoring progress, and making instructional changes in the face of slow to no progress. The time frame needs to be long enough to allow instruction to be effective, but not so long that a parent is unable to take advantage of this safety valve for late-filed open enrollment requests. For that reason, the relevant time period is a minimum of 12 weeks. That condition has been added to the introductory sentence of paragraph 17.5(3)“c,” and the words “over time” have been removed from subparagraph 17.5(3)“c”(2).

The Department also agrees that the words “but shall not be limited to” do not add any substantive meaning to paragraphs 17.5(3)“b” and “c” and risk adding uncertainty. For that reason, the words have been removed from those paragraphs.

#### *Adoption of Rule Making*

This rule making was adopted by the State Board on May 5, 2022.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The final Fiscal Note for 2021 Iowa Acts, House File 847, identified no fiscal impact to the state and can be found at [www.legis.iowa.gov/docs/publications/FN/1221404.pdf](http://www.legis.iowa.gov/docs/publications/FN/1221404.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.

#### *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 6, 2022.

The following rule-making action is adopted:



EDUCATION DEPARTMENT[281](cont'd)

Adopt the following **new** subrule 17.5(3):

**17.5(3) Criteria for determining whether a resident district consistently failed to reasonably respond to a student's failure to meet basic academic standards.** School officials, upon having data to evidence a student's failure to meet basic academic standards and having received notice from a student's parent/guardian, must have failed to respond to the student's failure.

*a.* Basic academic standards include Iowa academic standards for English language arts, mathematics, science, and social studies.

*b.* Evidence of a student's failure to meet basic academic standards may include one or more of the following:

- (1) Failure to meet grade-level benchmarks on universal screening assessments.
- (2) Failure to achieve proficiency on standards-based outcome assessments.
- (3) Receiving a grade of D or F (or equivalent) for a course.

*c.* A district's consistent failure to respond may include one or more of the following, measured over a minimum period of 12 weeks:

- (1) Failure to provide evidence-based interventions or strategies targeted to the student's needs.
- (2) Failure to monitor student growth.
- (3) Failure to make changes to the student's improvement plan if the student does not show progress.

[Filed 5/5/22, effective 7/6/22]

[Published 6/1/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.

**ARC 6338C**

## **INSURANCE DIVISION[191]**

**Adopted and Filed**

### **Rule making related to review of rules**

The Insurance Division hereby amends Chapter 10, "Insurance Producer Licenses and Limited Licenses," Chapter 35, "Accident and Health Insurance," and Chapter 76, "External Review," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 505B.1, 514J.117, 522A.7 and 522B.4.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 505B, 514J, 522A and 522B.

#### *Purpose and Summary*

These amendments are a result of the Division's ongoing review of rules. The amendments to Chapter 10 clarify the payment of appointments and the timing of notifications regarding vehicle rental counter employee limited licensee terminations. The amendment to Chapter 35 corrects a cross-reference. The amendments to Chapter 76 update the Division's main phone number.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 6, 2022, as **ARC 6285C**. No public comments were received. No changes from the Notice have been made.

INSURANCE DIVISION[191](cont'd)

*Adoption of Rule Making*

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on May 11, 2022.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—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 will become effective on July 6, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 191—10.15(522B) as follows:

**191—10.15(522B) Appointments.**

**10.15(1)** Insurers are required to file and pay for appointments with the division for each ~~producer~~ insurer with which the producer has an agency relationship. The determination of whether an insurer and a producer have an agency relationship will be made by the division based on the totality of the circumstances surrounding the business relationship. Appointments are not issued for business entities.

**10.15(2)** Insurers must file and pay for initial appointments using the NIPR Gateway, ~~except that insurers authorized under Iowa Code chapter 518 or 518A must file appointments directly with the division.~~

**10.15(3)** The notice of appointment must be filed within 30 days of the date the insurer and producer execute an agency contract or the first insurance application is submitted to the insurer.

**10.15(4)** Appointment fees are set forth in rule 191—10.26(522B). ~~The division or its designee will electronically transmit a billing statement to insurers authorized under Iowa Code chapter 518 or 518A, and payment is due within 45 days. The division will assess a late fee of \$100 for the failure to timely pay appointment billing statements and an additional \$500 on or after the forty-sixth day.~~

**10.15(5)** ~~The division may adopt special appointment filing procedures to allow an insurer to file one appointment request that will appoint a producer to some or all of the affiliated insurance companies that comprise a holding company.~~

**10.15(6)** When a company loses its identity in a new company by merger, acquisition, or otherwise, the new company must contact the licensing bureau division to arrange for reappointment of the producers to the remaining company.

**10.15(7)** Insurance companies must file the name, address, and electronic address of a contact person for the company, to whom the billing statements will be sent. Insurance companies must notify the division if there is a change of the person appointed as the contact person or if a change of the address of

INSURANCE DIVISION[191](cont'd)

such contact occurs. If an insurance company fails to notify the division of such a change, the insurance company must pay a \$100 fee.

ITEM 2. Amend subrule 10.16(4) as follows:

**10.16(4)** Failure to pay renewal appointment fees by March 15 will result in termination of a company's appointments. Appointments that are terminated due to nonpayment of renewal fees may be ~~reinstated upon payment of the renewal fee plus a reinstatement fee of \$500~~ reappointed using the NIPR Gateway.

ITEM 3. Amend subparagraph **10.51(1)“f”(5)** as follows:

(5) The vehicle rental limited licensee must notify the division of the termination of employment of any of its vehicle rental counter employee limited licensees. The vehicle rental limited licensee must file reports of terminations ~~semiannually on January 1 and July 1~~ within 30 days of termination of employment.

ITEM 4. Amend subparagraph **10.51(1)“i”(2)** as follows:

(2) Vehicle rental limited licensees must file written notification with the division of changes in names or addresses of vehicle rental counter employee limited licensees. If the change of name is by a court order, a copy of the order shall be included with the notification. The limited licensee must file reports of name and address changes ~~semiannually on January 1 and July 1~~ within 30 days of the change.

ITEM 5. Amend subrule 35.9(4) as follows:

**35.9(4) Electronic transmissions.** Notwithstanding the requirements of subrule 35.9(3), if an insurer, issuer, employer, group policyholder, or carrier receives, pursuant to 191—subrule 4-24(2) 4.21(4), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B.

ITEM 6. Strike “515-654-6465” wherever it appears in **191—Chapter 76** and insert “515-654-6600” in lieu thereof.

[Filed 5/11/22, effective 7/6/22]

[Published 6/1/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.

**ARC 6330C**

## **PHARMACY BOARD[657]**

**Adopted and Filed**

### **Rule making related to records, dispensing, and controlled substances**

The Board of Pharmacy hereby amends Chapter 6, “General Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” and Chapter 10, “Controlled Substances,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.301, 147.76 and 155A.13.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.301 and 155A.13.

#### *Purpose and Summary*

These amendments:

## PHARMACY BOARD[657](cont'd)

- Provide minimum security and monitoring system requirements to be utilized by Iowa pharmacies to prevent and detect unauthorized access to prescription drugs and records;
- Require an exact measure or count of all schedules of controlled substances for a controlled substance inventory count;
- Require a program to be established to monitor and ensure controlled substance accountability;
- Require development and execution of a corrective action plan following the report of theft or loss of controlled substances; and
- Require a controlled substance inventory to be taken with each change in pharmacist in charge.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5834C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2022, as **ARC 6179C**. A public hearing was held on March 3, 2022, at 10 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, and via Zoom. Comments received following publication of **ARC 6179C** are described below.

**Comments received at the public hearing:**

For Item 1, participants from hospital pharmacy practice settings expressed:

- Concern about the effective date for licensees to be compliant with the security parameters. The participants cited the need to submit budget requests for enhancements and possibility of back orders and backlogs for materials and installation that would impact timely compliance.
- Confusion about the applicability to the hospital setting while also acknowledging the need for controlled substance monitoring.

For Item 4, two participants (one each from hospital pharmacy practice and community pharmacy practice) commented that reconciliation of Schedule II controlled substances with each transaction is too onerous, while also supporting accountability of controlled substances. The participants suggested the Board retain the current language, which provides a registrant the option of either reconciling after each disbursement or at least once per year.

For Item 7, one participant from a hospital pharmacy practice setting expressed concern about reconciling Schedules III through V controlled substances, particularly when those products may be utilized in an automated medication dispensing system (AMDS).

**Other comments received:**

For Item 3, new paragraph 10.14(2)“f,” a commenter recommended changing “reconciliation of” to “accountability measures for.”

For Item 4:

- Amended subrule 10.18(4), a commenter recommended that the subrule qualify that only significant “negative” discrepancies be reported.
- Amended paragraph 10.18(4)“a,” a commenter recommend reconciliation of Schedule II substances only after every tenth dispensing of a product or at least monthly if a product is dispensed fewer than ten times during the month.

For Item 5, amended subrule 10.19(1), a commenter recommended that paragraphs “f” and “h” be maintained with the current language allowing estimated quantities for certain Schedules III through V controlled substances on a registrant’s inventory count.

For Item 6, amended subrule 10.19(4), a commenter suggested requiring the presence of the new owner when an inventory is conducted in response to a change of ownership.

For Item 8, new subrule 10.21(5), commenters suggested requiring an action plan only in situations when losses occurred as a result of internal theft and excluding an action plan when losses resulted from a robbery.

The Board was agreeable to many of the recommended changes, but declined others.

In response to the comments about Item 1, the Board acknowledges the challenges that might arise with supply chain backlogs and budgetary processes, particularly given the extended rule-making process with the Amended Notice of Intended Action. As a result, the Board changed the effective date of the

## PHARMACY BOARD[657](cont'd)

security requirements to be one year following the effective date of this rule making. In response to the concerns raised by hospital practice personnel relating to video surveillance requirements, the Board revised paragraph 6.7(5)“b” to clarify that video surveillance would not be required when drugs are stored in an AMDS or an alternative electronic storage unit that uses biometric restricted access or other electronic monitoring mechanism.

In response to the comment about Item 3, the Board agreed, and paragraph 10.14(2)“f” was revised accordingly.

Regarding the responses to Item 4, the Board was not in agreement with the suggestion to retain the current language to allow registrants the option of annual reconciliation for Schedule II products. Reconciliation with each transaction ensures the perpetual inventory count is accurate and truly perpetual, ensuring that substances are accounted for.

Relating to the reporting of discrepancies, the Board further amended subrule 10.18(4) to clarify that only losses are required to be reported.

Regarding the comments about Item 5, the Board generally declined the requests to maintain the status quo for allowing estimates of certain Schedules III through V substances on an inventory count. The products that would now require an exact count would be bottles containing fewer than 100 dosage forms. Previously allowing estimated quantities of products has resulted in unreliable audits and assurances that substances are accounted for.

The Board agreed, however, with the concern about exact counts of liquid products contained in nonincremented containers since loss of product will inevitably occur if the product is poured into a separate incremented container for the purpose of an inventory count. As such, the Board revised the underscored language in subparagraph 10.19(1)“f”(3) to allow liquid products packaged in nonincremented containers to be estimated to the nearest one-fourth container.

For the comment about Item 6, the Board declined to require the presence of a new owner when an inventory is conducted due to a change in ownership. A new owner has the option, if the new owner chooses, of taking a complete controlled substance inventory prior to opening of business on the first day under the new ownership.

For the comment about Item 7, the Board declined to make any changes to the rule since it provides the registrant a variety of options for maintaining accountability for Schedules III through V substances.

For the comment on Item 8, the Board declined to limit an action plan to only situations involving internal theft or to exclude losses resulting from robbery. The Board finds that each situation, robberies included, can be critically evaluated to determine the weaknesses that were exploited to result in the loss of controlled substances.

In addition to the changes described above, nonsubstantive changes have been made to clarify the rule language.

*Adoption of Rule Making*

This rule making was adopted by the Board on May 3, 2022.

*Fiscal Impact*

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

*Jobs Impact*

After analysis and review of this rule making, an impact on jobs cannot be determined.

*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.

## PHARMACY BOARD[657](cont'd)

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on July 6, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 6.7(5):

**6.7(5) Minimum physical security and monitoring system requirements.** Each pharmacy located in Iowa shall develop and implement policies and procedures to ensure appropriate physical security and monitoring of the pharmacy to prevent unauthorized access to prescription drugs, including controlled substances, and pharmacy records. The physical security and monitoring shall include the components identified herein, and the policies and procedures shall establish the utilization of such components commensurate with the pharmacy operation. The policies and procedures shall establish the retention of documentation of activities or recordings retained from the alarm and video surveillance systems, as well as contingencies when the systems are temporarily unavailable.

- a. No later than July 6, 2023, a basic alarm system.
- b. No later than July 6, 2023, a video surveillance system, except in areas where drugs are stored in an automated medication dispensing system or an alternative electronic storage unit which uses biometric restricted access or other electronic monitoring mechanism.
- c. Controlled access to computer records.
- d. A designated location that can be monitored, away from drug storage and handling areas, where personal items of pharmacy staff may be stored while on site.

ITEM 2. Adopt the following **new** paragraph **8.3(3)“e”**:

e. Ensuring that the pharmacy provides adequate security to prevent unauthorized access and diversion.

ITEM 3. Adopt the following **new** paragraphs **10.14(2)“d”** to **“g”**:

- d. To the extent possible, a separation of duties related to the purchasing, receiving, stocking, dispensing, and reconciling of controlled substance inventory.
- e. The reconciliation of controlled substances in Schedule II pursuant to subrule 10.18(4).
- f. The accountability measures for controlled substances in Schedules III through V pursuant to rule 657—10.20(124).
- g. A controlled substance accountability program to document review of controlled substance inventory adjustments, review patterns of controlled substance loss, and create an action plan following a report of theft or loss pursuant to subrule 10.21(5).

ITEM 4. Amend subrule 10.18(4) as follows:

**10.18(4) Reconciliation.** The registrant shall be responsible for reconciling or ensuring the completion of a reconciliation of the perpetual inventory balance with the physical inventory of all Schedule II controlled substances at least annually. ~~In case of any Any discrepancies between the physical inventory and the perpetual inventory, the registrant shall be notified~~ discovered during reconciliation shall be investigated and reported to the pharmacist in charge or responsible individual immediately but no later than one business day following the discovery. The registrant shall determine the need for further investigation, and significant ~~discrepancies~~ losses shall be reported to the board pursuant to rule 657—10.21(124) and to the DEA pursuant to federal DEA regulations. Periodic reconciliation records shall be maintained and available for review and copying by the board or its

## PHARMACY BOARD[657](cont'd)

authorized agents for a period of two years from the date of the record. The reconciliation process ~~may~~ shall be completed using ~~either of~~ the following procedures or a combination thereof:

*a.* The individual responsible for a disbursement ~~verifies~~ shall verify that the physical inventory matches the perpetual inventory following each ~~disbursement~~ transaction and documents that reconciliation in the perpetual inventory record. If controlled substances are maintained on the patient care unit, the nurse or other responsible licensed health care provider verifies that the physical inventory matches the perpetual inventory following each dispensing and documents that reconciliation in the perpetual inventory record. If any Schedule II controlled substances in the registrant's current inventory have been disbursed and verified in this manner within the year and there are no discrepancies noted, no additional reconciliation action is required. A perpetual inventory record for a drug that has had no activity within the year shall be reconciled pursuant to paragraph 10.18(4) "b."

*b.* A physical count of each Schedule II controlled substance stocked by the registrant ~~that has not been reconciled pursuant to paragraph 10.18(4) "a"~~ shall be completed at least once each year, and that count shall be reconciled with the perpetual inventory record balance. The physical count and reconciliation may be completed over a period of time not to exceed one year in a manner that ensures that the perpetual inventory and the physical inventory of Schedule II controlled substances are annually reconciled. The individual performing the reconciliation shall record the date, the time, the individual's initials or unique identification, and any discrepancies between the physical inventory and the perpetual inventory.

ITEM 5. Amend subrule 10.19(1) as follows:

**10.19(1) Record and procedure.** Each inventory record, except the periodic count and reconciliation required pursuant to subrule 10.18(4), shall comply with the requirements of this subrule and shall be maintained for a minimum of two years from the date of the inventory.

*a. to e.* No change.

*f.* The inventory record, unless otherwise provided under federal law, shall include the following information:

(1) and (2) No change.

(3) The quantity of the substance, which shall be an exact count or measure of the substance and may not be an estimated count or measure, except for liquid products packaged in nonincremented containers, which may be estimated to the nearest one-fourth container.

(4) to (6) No change.

~~*g.* For all substances listed in Schedule I or II, the quantity shall be an exact count or measure of the substance.~~

~~*h.* For all substances listed in Schedule III, IV, or V, the quantity may be an estimated count or measure of the substance unless the container has been opened and originally held more than 100 dosage units. If the opened commercial container originally held more than 100 dosage units, an exact count of the contents shall be made. Products packaged in nonincremented containers may be estimated to the nearest one-fourth container.~~

ITEM 6. Amend subrule 10.19(4) as follows:

**10.19(4) Change of ownership, pharmacist in charge, or registered location.**

*a.* When there is a change in ownership, ~~pharmacist in charge,~~ or location for a registration, an inventory shall be taken of all controlled substances in compliance with subrule 10.19(1). The inventory shall be taken following the close of business on the last day under terminating ownership, ~~terminating pharmacist in charge's employment,~~ or at the location being vacated. The inventory shall serve as the ending inventory for the terminating owner, ~~terminating pharmacist in charge,~~ or location being vacated, as well as a record of the beginning inventory for the new owner, ~~pharmacist in charge,~~ or location.

*b.* When there is a change of pharmacist in charge, including when the incoming pharmacist in charge is temporary or interim pursuant to 657—paragraph 8.35(6) "d," an inventory shall be taken of all controlled substances in compliance with subrule 10.19(1). An inventory shall be taken following the close of business on the last day of duty of the outgoing pharmacist in charge. The inventory may serve as the beginning inventory for the incoming pharmacist in charge, unless the incoming pharmacist in

## PHARMACY BOARD[657](cont'd)

charge did not immediately assume the duties of pharmacist in charge following the outgoing pharmacist in charge. Any lapse in time between the outgoing pharmacist in charge and the incoming pharmacist in charge shall cause an inventory to be taken prior to the opening of business on the first day of duty of the incoming pharmacist in charge. An inventory count shall not be required in the case of an interim pharmacist in charge if the pharmacy maintains perpetual inventory logs for all controlled substances pursuant to rule 657—10.20(124).

ITEM 7. Adopt the following **new** rule 657—10.20(124):

**657—10.20(124) Schedule III through V accountability.** A registrant shall ensure accountability of Schedule III through V controlled substances through one or more of the measures identified herein.

1. Perpetual inventory log, which may be maintained by electronic means, so long as the system complies with the perpetual inventory requirements in rule 657—10.18(124).
2. Documented audit and reconciliation of all controlled substances every six months.
3. Routine documented cycle counts of substances, so long as all controlled substances are counted every 90 days and identified discrepancies are investigated and documented.
4. Other measure preapproved by the board.

ITEM 8. Adopt the following **new** subrule 10.21(5):

**10.21(5) Action plan following loss.** Within seven days following the report of theft or loss, a registrant shall develop and initiate implementation of an action plan to address the conditions which contributed to the theft or loss. The action plan shall include any directives, including, but not limited to, inventory counts, audits, and perpetual inventory counts provided by a board compliance officer.

[Filed 5/4/22, effective 7/6/22]

[Published 6/1/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.

**ARC 6331C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to compounded preparations**

The Board of Pharmacy hereby amends Chapter 20, "Compounding Practices," Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 147.76.

*Purpose and Summary*

These amendments allow veterinarians who have obtained compounded preparations for office stock use to dispense the compounded preparations to the owner of a veterinary patient to treat an immediate medical need when timely access to a patient-specific supply of compounded medication is not available, no commercially available product can meet the need of the patient, lack of treatment will likely result in patient harm, and the supply does not exceed 14 days.



PHARMACY BOARD[657](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 9, 2022, as **ARC 6178C**. The Board received three written comments. One comment expressed support for the rule making.

The other two comments requested modification of the limitation that the supply of compounded preparation does not exceed 14 days when dispensed to treat an immediate medical need of a veterinary patient if the compounded preparation is obtained from a U.S. Food and Drug Administration (FDA)-registered, Iowa-licensed outsourcing facility. One comment suggested raising the limit to 30 days on the dispensing of compounded preparations obtained from an outsourcing facility, while the other comment suggested imposing no limit at all on the dispensing of compounded medications obtained from an outsourcing facility.

While the Board recognizes that preparations compounded by an outsourcing facility and a pharmacy are subject to different product quality standards (current Good Manufacturing Practices vs. United States Pharmacopoeia, respectively), compounded preparations from an outsourcing facility are not without risk because they are not subject to the complete FDA approval process as required of commercially available drug products. The commenters rightly noted that a compounded preparation obtained from an outsourcing facility has a longer shelf life as a result of the higher quality standard required of its production. The longer shelf life of a product from an outsourcing facility provides incentive for veterinarians to seek out preparations from these facilities, if available, as opposed to a compounded preparation with a shorter shelf life from a licensed pharmacy. The 14-day limit is not intended to imply that compounded preparations obtained from an outsourcing facility and pharmacy are inherently of the same quality. Providing separate quantity limits based on the supplier of the compounded preparation, as suggested, would likely cause confusion for veterinarians who may not know the type of license held by the compounder.

This rule making seeks to provide veterinarians with an option to provide their patients with a compounded preparation from office stock in limited situations when there is an immediate medical need and is intended to provide a sufficient supply of the medication to meet the immediate need of the patient. When a treatment is needed for longer than 14 days, the Board's expectation is that if a compounded preparation is required, the compounded preparation will be dispensed pursuant to a patient-specific prescription from an Iowa-licensed pharmacy or outsourcing facility that also holds an Iowa pharmacy license.

No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on May 3, 2022.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 6, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **657—20.2(124,126,155A)**, definition of “Office use,” as follows:

“*Office use*” means that a compounded product has been prepared and distributed to a practitioner for administration to a patient by the practitioner in the course of the practitioner’s professional practice. A compounded product distributed to a practitioner for “office use” shall not require a patient-specific prescription and may not be further distributed to another practitioner or dispensed to a patient for self-administration, except as provided in subrule 20.15(2).

ITEM 2. Amend rule 657—20.15(124,126,155A) as follows:

**657—20.15(124,126,155A) Compounding for office use.**

**20.15(1)** No change.

**20.15(2) *Veterinary compounded preparations.*** Veterinary compounded preparations may be sold to a practitioner for office use if the preparations are compounded by an Iowa-licensed pharmacy or outsourcing facility and sold directly to the practitioner by the pharmacy or outsourcing facility. Veterinary compounded preparations sold to a practitioner for office use may be dispensed to the owner of a veterinary patient to treat an immediate medical need when timely access to a patient-specific supply of compounded medication is not available, no commercially available product can meet the need of the patient, lack of treatment will likely result in patient harm, and the supply does not exceed 14 days.

**20.15(3) *Office use.*** Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to a patient in the course of the practitioner’s professional practice. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or dispensed to a patient for self-administration, except as provided in subrule 20.15(2).

**20.15(4)** No change.

[Filed 5/4/22, effective 7/6/22]

[Published 6/1/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.

**ARC 6337C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to the time allowed for completion of the laboratory portion  
of driver’s education courses**

The Transportation Department hereby amends Chapter 634, “Driver Education,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.178.

TRANSPORTATION DEPARTMENT[761](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.178.

*Purpose and Summary*

This rule making updates Chapter 634 to build flexibility into the rule related to the timing of the completion of the classroom and laboratory portions of a driver's education course.

The current administrative rule requires the laboratory portion of the course to conclude no later than 30 days after the classroom portion of the course has been completed. However, during the COVID-19 pandemic, and in other situations of medical necessity unrelated to COVID-19 that are beyond the student's control, it has become a somewhat regular occurrence for students to need additional time beyond the 30-day time period allowed in the current rule to complete the laboratory portion of the course. An example of this kind of medical necessity is a sports injury when a student's right foot is broken and is required to be in a cast for eight weeks followed by two to four weeks of recovery during which the student cannot drive because the right foot is needed to depress the gas and brake pedals. To address these circumstances, the amendment allows the laboratory portion of the course to conclude within 45 days after classroom instruction has been completed, or if the driver's education course provider determines there is good cause for delay, within 90 days after the classroom instruction has been completed. In the Department's experience, most students are able to fully complete the remainder of the laboratory instruction within a 90-day time frame, most often during the provider's next available course offering.

Other amendments remove references to 2021 Iowa Acts, House File 380 and Senate File 546, because this legislation has been codified.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 6, 2022, as **ARC 6278C**.

The Department received comments from Safer Driver Solutions regarding private driver education company business practices and total driver's education course length requirements. However, because these concerns would require legislative changes within Iowa Code section 321.178, they cannot be addressed by this rule making.

No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on May 11, 2022.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Review by Administrative Rules Review Committee*

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

## TRANSPORTATION DEPARTMENT[761](cont'd)

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

*Effective Date*

This rule making will become effective on July 6, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **634.4(2)“b”** as follows:

*b.* Each student shall be scheduled to receive classroom or laboratory instruction each week of the course ~~but in no case shall~~. Except upon showing of good cause, laboratory instruction shall not conclude later than 30 45 days after classroom instruction is has been completed. When the driver education course provider determines there is good cause, the laboratory instruction shall not conclude later than 90 days after classroom instruction has been completed. For the purpose of this paragraph, “good cause” means an unanticipated event causing a delay in the student’s ability to complete the laboratory instruction if the event is beyond the student’s control.

ITEM 2. Amend subrule **634.11(1)**, definition of “Teaching parent,” as follows:

“*Teaching parent*” means the same as defined in Iowa Code section 321.178A ~~as amended by 2021 Iowa Acts, Senate File 546, section 10.~~

ITEM 3. Amend **761—Chapter 634**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.178, ~~as amended by 2021 Iowa Acts, House File 380, section 1, and Senate File 546, section 9;~~ 321.178A, ~~as amended by 2021 Iowa Acts, House File 380, section 2, and Senate File 546, sections 10 to 15;~~ 321.180B and 321.194.

[Filed 5/11/22, effective 7/6/22]

[Published 6/1/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.