IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor Telephone: (515)281-3355

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making
2018

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
2	**Friday, June 29, 2018**	**July 18, 2018**
3	**Friday, July 13, 2018**	**August 1, 2018**
4	**Friday, July 27, 2018**	**August 15, 2018**

PLEASE NOTE:

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

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

Note change of filing deadline

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 10, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ALCOHOLIC BEVERAGES DIVISION[185]
COMMERCE DEPARTMENT[181]"umbrella"

Licenses; permits; forms, amend chs 4, 5; rescind ch 12 Notice **ARC 3817C** 6/6/18

ARCHITECTURAL EXAMINING BOARD[193B]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Need for professional architectural services—exceptions, 5.1, 5.3, 5.4 Filed **ARC 3853C** 6/20/18

COLLEGE STUDENT AID COMMISSION[283]
EDUCATION DEPARTMENT[281]"umbrella"

Meetings of and voting by the commission, 1.2(3)
Notice **ARC 3843C**, also Filed Emergency **ARC 3844C** 6/20/18

Membership of commission; barber and cosmetology arts and sciences tuition grant program, amend 1.2(2); rescind ch 17 Filed **ARC 3854C** 6/20/18

DENTAL BOARD[650]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Unauthorized practice by dental hygienist; public health supervision; name and address changes; use of silver diamine fluoride, 10.4 to 10.6, 16.2(2) Notice **ARC 3849C** 6/20/18

ECONOMIC DEVELOPMENT AUTHORITY[261]

Iowa energy center, ch 403 Notice **ARC 3842C** 6/20/18

EDUCATIONAL EXAMINERS BOARD[282]
EDUCATION DEPARTMENT[281]"umbrella"

Expiration date of licenses, 13.6, 13.30, 18.4, 23.2, 27.2 Notice **ARC 3827C** 6/6/18

Coursework for out-of-state applicants; license renewal for applicant with specialist's or doctor's degree, 13.5, 18.6, 20.6, 20.9, 27.5 Filed **ARC 3829C** 6/6/18

EDUCATION DEPARTMENT[281]

Accreditation standards—statewide summative assessment, policy prohibiting the aiding and abetting of sexual abuse, 12.3(14), 12.8(1)"h" Notice **ARC 3822C** 6/6/18

Iowa learning online—provision of distance education to students receiving private instruction, 15.10, 15.12 to 15.15 Notice **ARC 3823C** 6/6/18

Community colleges—career and technical general education credits, transfer major programs, developmental education, 21.2 to 21.4 Notice **ARC 3824C** 6/6/18

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Solid waste management and disposal—regional collection centers and satellite facilities, household hazardous materials, financial assistance for management of household hazardous materials and waste from very small quantity generators, amend chs 119, 211; rescind chs 123, 144, 214; adopt ch 123 Notice **ARC 3826C** 6/6/18

HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605]

Adoption of hazard mitigation plan and disaster recovery plan, 9.3, 9.4 Notice **ARC 3846C** 6/20/18

HUMAN SERVICES DEPARTMENT[441]

Provision of mental health services—documentation, 24.4 Filed **ARC 3855C** 6/20/18

INSPECTIONS AND APPEALS DEPARTMENT[481]

Tuberculosis (TB) screening, ch 59 Notice **ARC 3818C** 6/6/18

INTERIOR DESIGN EXAMINING BOARD[193G]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Registration; continuing education, 2.2(1), 2.3, 2.4, 3.1, 3.2(3) Notice **ARC 3841C** 6/20/18

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

Conveyances, amendments to chs 66 to 73 Filed **ARC 3856C** 6/20/18

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

Standards of practice—medical cannabidiol, 13.15 Filed **ARC 3830C** 6/6/18

NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Snowmobile fee grants, cost-share programs, and contracts, adopt 47.10; rescind 47.30 to 47.47 Notice **ARC 3828C** 6/6/18
Deer hunting by residents and nonresidents, amendments to chs 94, 106 Filed **ARC 3831C** 6/6/18
Wild turkey spring and fall hunting, amendments to chs 98, 99 Filed **ARC 3832C** 6/6/18

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

Correctional pharmacy practice, 15.4, 15.5(3), 15.7, 15.8(1) Notice **ARC 3848C** 6/20/18
Repackaging of VA medications, 22.6 Notice of Termination **ARC 3845C** 6/20/18
Imitation controlled substances, 1.2, 3.29, 3.30(1), 4.10, 4.11(1), 5.24, 5.26(1), 10.44, 17.18, 19.11, 41.6 Filed **ARC 3857C** 6/20/18
Practice standards, amend chs 4, 8, 13, 18, 19; adopt ch 39 Filed **ARC 3858C** 6/20/18
Care facility pharmacy practice, amendments to chs 10, 23 Filed **ARC 3859C** 6/20/18
Temporary designation of controlled substances—synthetic opioids, opioid analgesic; precursor substances, 10.39, 10.42 Filed **ARC 3860C** 6/20/18
Registration—medical director-based service program, 11.3(1) Filed **ARC 3861C** 6/20/18
Telepharmacy practice—functions of pharmacy support person, 13.8(7) Filed **ARC 3862C** 6/20/18
Centralized prescription filling and processing, 18.3, 18.5(2), 18.10, 18.15 Filed **ARC 3863C** 6/20/18

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Initialization of a retention and recertification election, 5.6(1) Notice **ARC 3825C** 6/6/18

PUBLIC HEALTH DEPARTMENT[641]

Childhood lead poisoning prevention program, 72.1 to 72.3 Filed **ARC 3833C** 6/6/18
Maternal and child health program, amendments to ch 76 Notice **ARC 3814C** 6/6/18
Center for rural health and primary care, amendments to ch 110 Notice **ARC 3815C** 6/6/18
Trauma registry—updates for clarification, 136.1, 136.2 Filed **ARC 3834C** 6/6/18
Iowa law enforcement emergency care provider, rescind ch 139 Notice **ARC 3816C** 6/6/18
Regionalized system of perinatal health care, amendments to ch 150 Filed **ARC 3835C** 6/6/18
Medical cannabidiol program, amendments to ch 154 Filed **ARC 3836C** 6/6/18

REVENUE DEPARTMENT[701]

Sales and use tax ineligible for refund; workforce housing tax incentives program, 12.19, 42.53, 52.46, 58.23 Filed **ARC 3837C** 6/6/18
Assessor and deputy assessor examination—preliminary education requirements, 72.1(1), 72.3 Filed **ARC 3838C** 6/6/18

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Water protection practice standards—update of reference to forestry technical guide, 12.83 Notice **ARC 3819C** 6/6/18
Water quality initiative—eligible practices, cost-share limitation, amendments to ch 16 Notice **ARC 3847C** 6/20/18
Closure of agricultural drainage wells; watershed improvement review board, amend ch 30; rescind chs 101 to 107 Filed **ARC 3839C** 6/6/18

TRANSPORTATION DEPARTMENT[761]

Special registration plates, amendments to ch 401 Notice **ARC 3820C** 6/6/18
Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1, 529.1, 529.2, 607.10(1)"c" Filed **ARC 3840C** 6/6/18

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

Complaint procedures, amendments to ch 6 Notice **ARC 3850C** 6/20/18
Civil penalties, amendments to ch 8 Notice **ARC 3851C** 6/20/18
Evaluation of management efficiency of rate-regulated utilities, amendments to ch 29 Notice **ARC 3852C** 6/20/18

VETERINARY MEDICINE BOARD[811]
Veterinary technician state examination—fee, 8.3(1) Notice **ARC 3821C** 6/6/18

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Jack Ewing
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Telephone (515)281-6048
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Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

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

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

ALCOHOLIC BEVERAGES DIVISION[185]

Licenses; permits; forms, amend chs 4, 5; rescind ch 12 IAB 6/6/18 **ARC 3817C**	Division Board Room 1918 S.E. Hulsizer Rd. Ankeny, Iowa	June 26, 2018 9 a.m. (If requested)

DENTAL BOARD[650]

Unauthorized practice by dental hygienist; public health supervision; name and address changes; use of silver diamine fluoride, 10.4 to 10.6, 16.2(2) IAB 6/20/18 **ARC 3849C**	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	July 13, 2018 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Expiration date of licenses, 13.6, 13.30, 18.4, 23.2, 27.2 IAB 6/6/18 **ARC 3827C**	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	June 27, 2018 1 p.m.

EDUCATION DEPARTMENT[281]

Accreditation standards—statewide summative assessment, policy prohibiting the aiding and abetting of sexual abuse, 12.3(14), 12.8(1)"h" IAB 6/6/18 **ARC 3822C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 9 to 10 a.m.
Iowa learning online—provision of distance education to students receiving private instruction, 15.10, 15.12 to 15.15 IAB 6/6/18 **ARC 3823C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 10 to 11 a.m.
Community colleges—career and technical general education credits, transfer major programs, developmental education, 21.2 to 21.4 IAB 6/6/18 **ARC 3824C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 11 a.m. to 12 noon

ENVIRONMENTAL PROTECTION COMMISSION[567]

Solid waste management and disposal, amend chs 119, 211; rescind chs 123, 144, 214; adopt ch 123 IAB 6/6/18 **ARC 3826C**	Conference Room 4 West Wallace State Office Bldg. Des Moines, Iowa	June 27, 2018 1 to 3 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Adoption of hazard mitigation plan and disaster recovery plan, 9.3, 9.4 IAB 6/20/18 **ARC 3846C**	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	July 10, 2018 11 a.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Registration; continuing education, 2.2(1), 2.3, 2.4, 3.1, 3.2(3) IAB 6/20/18 **ARC 3841C**	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 10, 2018 9 a.m.

NATURAL RESOURCE COMMISSION[571]

Snowmobile fee grants, cost-share programs, and contracts, adopt 47.10; rescind 47.30 to 47.47 IAB 6/6/18 **ARC 3828C**	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	June 26, 2018 9 to 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Special registration plates, amendments to ch 401 IAB 6/6/18 **ARC 3820C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	June 28, 2018 10 a.m. (If requested)

UTILITIES DIVISION[199]

Complaint procedures, amendments to ch 6 IAB 6/20/18 **ARC 3850C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 24, 2018 1 to 2:30 p.m.
Civil penalties, amendments to ch 8 IAB 6/20/18 **ARC 3851C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 24, 2018 2:30 to 4 p.m.
Inmate calling rates, 22.19(8) IAB 5/9/18 **ARC 3773C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 10, 2018 1 to 3 p.m.
Evaluation of management efficiency of rate-regulated utilities, amendments to ch 29 IAB 6/20/18 **ARC 3852C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 24, 2018 9 to 11 a.m.
Universal service, 39.2, 39.3, 39.6, 39.7, 39.8(1) IAB 4/25/18 **ARC 3753C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	June 20, 2018 9 a.m. to 12 noon

The following list will be updated as changes occur.

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

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

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

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ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR COMMENCING JULY 1, 2018, AND ENDING JUNE 30, 2019

In accordance with Iowa Code section 618.11, the Iowa Department of Administrative Services Director hereby publishes the lineage rate* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2018, and ending on June 30, 2019, in the following amounts:

* Lineage rate: "…each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11)

One insertion = 49.1 cents
Each subsequent insertion = 33.1 cents

The rate becomes effective on July 1, 2018. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.5% for the 12 months ended April 2018. The April index was the most recent index available as of May 29, 2018, the date on which this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, the calculation and publication of the rate by the Director of the Department of Administrative Services shall be exempt from the provisions of chapters 17A and 25B.

If you have questions regarding this notice, please contact:

Matthew Behrens, OCIO Deputy Chief Operating Officer
Office of the Chief Information Officer
1305 E. Walnut
Des Moines, Iowa 50319
Telephone: 515.281.5503
Email: Matt.Behrens@iowa.gov

ARC 3843C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to meetings of and voting by the commission and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

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

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261.

Purpose and Summary

Amendments to subrule 1.2(3) were Adopted and Filed and published in the March 28, 2018, Iowa Administrative Bulletin as **ARC 3699C**. On April 9, 2018, the Administrative Rules Review Committee expressed concern regarding the language clarifying the number of meetings held annually and the definition of affirmative votes. Pursuant to Iowa Code section 17A.4(7), the Committee voted to delay the effective date of **ARC 3699C** for 70 days, allowing Commission staff to propose amendments to address Committee concerns. At its May 8, 2018, meeting, the Administrative Rules Review Committee reviewed language proposed by Commission staff and, pursuant to Iowa Code section 17A.4(3), approved the Emergency adoption of the amendments.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 3844C**). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 3849C

DENTAL BOARD[650]

Notice of Intended Action

Proposing rule making related to practice of dental licensees and registrants and providing an opportunity for public comment

The Dental Board hereby proposes to amend Chapter 10, "General Requirements," and Chapter 16, "Prescribing, Administering, and Dispensing Drugs," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.9, 153.15, 153.16, 153.17, 153.33, 153.33A and 153.34.

Purpose and Summary

The purpose of the proposed amendments is to eliminate the prohibition against ownership of a dental practice by a dental hygienist, update protocols for a licensed dental hygienist to work in a public health setting, clarify the use of silver diamine fluoride, and implement clearer requirements for reporting changes of name and address.

The proposed amendments remove the restriction against ownership of a dental practice by a dental hygienist. The amendments focus on the level of supervision under which a dental hygienist must work, rather than ownership of a dental practice.

The proposed amendments reduce the number of years of clinical experience required for a licensed dental hygienist to work in a public health setting. Current rules allow a dental hygienist to work under public health supervision after having completed three years of clinical practice. The amendments reduce this requirement to one year, which is consistent with the requirement for registered dental assistants.

The proposed amendments permit licensed dental hygienists to use silver diamine fluoride in a public health setting and set forth parameters for its use.

The proposed amendments clarify the situations wherein a licensee or registrant would be required to submit a change of address to the Board.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there is a positive impact on jobs for dental hygienists who wish to work in a public health setting because hygienists will be able to do so with fewer years of

experience. Public health settings have sometimes had difficulty finding qualified candidates. The new requirements will allow more dental hygienists to qualify for work in this setting.

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 650—Chapter 7.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 13, 2018. Comments should be directed to:

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

Public Hearing

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

July 13, 2018	Board Office, Suite D
2 p.m.	400 S.W. Eighth Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 650—10.4(153) as follows:

650—10.4(153) Unauthorized practice of a dental hygienist. A dental hygienist ~~who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or~~ who renders ~~dental~~ hygiene services, except educational services, ~~directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist~~ that have not been delegated by a licensed

dentist or that are not performed under the supervision of a licensed dentist as provided by rule shall be deemed to be practicing illegally.

10.4(1) The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—10.3(153).

10.4(2) The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist that exceeds the scope of practice granted in Iowa Code section 153.15.

~~**10.4(3)** A dental hygienist shall not provide services, except for educational services, independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.~~

~~**10.4(4)**~~ **10.4(3)** Students enrolled in dental hygiene programs. Students enrolled in an accredited dental hygiene program are not considered to be engaged in the unlawful practice of dental hygiene provided that such practice is in connection with their regular course of instruction and meets the following:

a. The practice of clinical skills on peers enrolled in the same program must be under the direct supervision of a program instructor with an active Iowa dental hygiene license, Iowa faculty permit, or Iowa dental license;

b. The practice of clinical skills on members of the public must be under the general supervision of a dentist with an active Iowa dental license;

c. The practice of clinical skills involving the administration or monitoring of nitrous oxide or the administration of local anesthesia must be under the direct supervision of a dentist with an active Iowa dental license.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

ITEM 2. Amend rule 650—10.5(153) as follows:

650—10.5(153) Public health supervision allowed. A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist if the dentist has an active Iowa license and the services are provided in public health settings.

10.5(1) *Public health settings defined.* For the purposes of this rule, public health settings are limited to schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers); federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; and federal, state, or local public health programs.

10.5(2) *Public health supervision defined.* "Public health supervision" means all of the following:

a. The dentist authorizes and delegates the services provided by a dental hygienist to a patient in a public health setting, with the exception that hygiene services may be rendered without the patient's first being examined by a licensed dentist;

b. The dentist is not required to provide future dental treatment to patients served under public health supervision;

c. The dentist and the dental hygienist have entered into a written supervision agreement that details the responsibilities of each licensee, as specified in subrule 10.5(3); and

d. The dental hygienist has an active Iowa license with a minimum of ~~three years~~ one year of clinical practice experience.

10.5(3) *Licensee responsibilities.* When working together in a public health supervision relationship, a dentist and dental hygienist shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the dental hygienist;

(2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and

medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;

(3) Specify a period of time in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; ~~and~~

(4) Specify the location or locations where the hygiene services will be provided under public health supervision~~.~~; and

(5) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride and must follow board-approved protocols.

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 650—10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia, and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(3) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;

(4) Have each patient sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; ~~and~~

(5) Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist, including where these records are to be located~~.~~; and

(6) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride and must follow board-approved protocols.

c. The written agreement for public health supervision must be maintained by the dentist and the dental hygienist and must be made available to the board upon request. The dentist and dental hygienist must review the agreement at least biennially.

d. A copy of the written agreement for public health supervision shall be filed with the Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

10.5(4) *Reporting requirements.* Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

This rule is intended to implement Iowa Code section 153.15.

ITEM 3. Amend rule 650—10.6(147,153,272C) as follows:

650—10.6(147,153,272C) Other requirements.

10.6(1) *Change of ~~address or~~ name.* Each person licensed or registered by the board must notify the board, by written correspondence ~~or through the board's online system~~, of a change of legal name ~~or address~~ within 60 days of such change. Proof of a legal name change, such as a ~~notarized~~ copy of a notarized letter, marriage certificate, or other legal document establishing the change must accompany the request for a name change.

10.6(2) *Change of address.* Each person licensed or registered by the board must notify the board within 60 days, through the board's online system, of changes in email and mailing addresses. Address changes shall be submitted as follows:

a. Primary mailing address. Licensees or registrants shall designate a primary mailing address. The primary mailing address may be a designated work or home address.

b. Practice locations. Licensees or registrants shall report addresses for all practice locations. Practice locations include full-time and part-time practice locations.

c. Email address. Each licensee or registrant shall report, when available, an email address for the purpose of electronic communications from the board.

~~10.6(2)~~ 10.6(3) *Child and dependent adult abuse training.* Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting within six months of initial employment and subsequently every five years in accordance with 650—subrule 25.2(9).

~~10.6(3)~~ 10.6(4) *Reporting requirements.* Each licensee and registrant shall be responsible for reporting to the board, within 30 days, any of the following:

a. Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.

b. Every settlement of a claim against the licensee or registrant alleging malpractice.

c. Any license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority.

This rule is intended to implement Iowa Code sections 147.9, 232.69, 235B.16 and 272C.9.

ITEM 4. Amend subrule 16.2(2) as follows:

16.2(2) A dental examination must be conducted and a medical history taken before a dentist initially prescribes, administers, or dispenses medication to a patient, except for patients who receive fluoride or silver diamine fluoride dispensed under protocols approved by the ~~dental health~~ bureau of oral and health delivery systems of the department of public health. The examination must focus on the patient's dental problems, and the resulting diagnosis must relate to the patient's specific complaint. The patient's dental record must contain written evidence of the examination and medical history.

ARC 3842C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to the Iowa energy center and providing an opportunity for public comment

The Economic Development Authority hereby proposes to adopt new Chapter 403, "Iowa Energy Center," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections and 15.106A and 15.120.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.120.

Purpose and Summary

2017 Iowa Acts, Senate File 513, transferred the Iowa Energy Center from Iowa State University to the Economic Development Authority. Senate File 513, section 35, created new Iowa Code section 15.120, which established the Center within the Authority and changed the Center's purpose and governing board. Proposed new Chapter 403 includes the Center's purpose, definitions, and rules governing the Iowa Energy Center Board.

The Iowa Energy Center Board approved the proposed new chapter of rules at its meeting held on March 8, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

Jennifer Klein
Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
Phone: 515.725.3124
Email: jennifer.klein@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 403:

CHAPTER 403
IOWA ENERGY CENTER

261—403.1(15) Purpose. The Iowa energy center is established within the authority with the following purposes:

1. To expand workforce and career opportunities for workers in the energy sector to ensure that the state is able to attract and train professionals to meet the state's future energy needs.

2. To support technology-based development by encouraging public-private partnerships and innovative manufacturers to develop and bring to market new energy technologies.

3. To support rural and underserved areas and vulnerable populations by creating opportunities for greater access to energy efficiency expertise, training, programs, and cyber security preparedness for small utilities.

4. To support the expansion of natural gas infrastructure to rural and underserved areas of the state where the absence is a limiting factor to economic development.

5. To promote and fund research, development, and commercialization of biomass technology to benefit the state economically and environmentally by further realizing the value-added attributes of biomass in the development of bioenergy, biofuels, and biochemicals.

6. To encourage growth of the alternative fuel vehicle market, particularly for electric vehicles, and the infrastructure necessary to support the market.

7. To support efforts to modernize the electric grid infrastructure of the state to support increased capacity and new technologies.

261—403.2(15) Definitions. As used in these rules, unless the context otherwise requires:

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

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2), and includes the members appointed to the board by the governor.

"Center" means the Iowa energy center established pursuant to Iowa Code section 15.120.

"Committee" means a committee established by the board.

"Director" means the director of the authority.

"Internet site" means the information and related content maintained by the authority and found at www.iowaeconomicdevelopment.com. "Internet site" may include content at affiliated sites whose content is integrated with that site, including the Iowa energy center website.

261—403.3(15) Iowa energy center board.

403.3(1) *Composition.* A governing board is established consisting of the following members appointed by the governor:

a. One member representing Iowa state university of science and technology, in consultation with the president of that university.

b. One member representing the university of Iowa, in consultation with the president of that university.

c. One member representing the university of northern Iowa, in consultation with the president of that university.

d. One member representing private colleges and universities within the state, in consultation with the Iowa association of independent colleges and universities.

e. One member representing community colleges, in consultation with the Iowa association of community college trustees.

f. One member representing the economic development authority, in consultation with the director of the economic development authority.

g. One member representing the state department of transportation, in consultation with the director of the department of transportation.

h. One member representing the office of consumer advocate, in consultation with the consumer advocate.

i. One member representing the utilities board, in consultation with the chair of the utilities board.

j. One member representing rural electric cooperatives, in consultation with the Iowa association of electric cooperatives.

k. One member representing municipal utilities, in consultation with the Iowa association of municipal utilities.

l. Two members representing investor-owned utilities, one representing gas utilities, and one representing electric utilities, in consultation with the Iowa utility association.

403.3(2) *Terms.* Members of the board are appointed for staggered terms of four years beginning and ending as provided in Iowa Code section 69.19. A person appointed to fill a vacancy serves only for the unexpired portion of the term. A member is eligible for reappointment. Any vacancy shall be filled by the governor as provided for in Iowa Code section 15.120(2). The terms of board members shall be staggered as determined by the director.

403.3(3) *Quorum and voting requirements.* A quorum of the board requires nine or more members, and any board action requires an affirmative vote by a majority of the members present.

403.3(4) *Board officers.* The board shall elect a chairperson and a vice chairperson annually and may elect other officers as necessary.

403.3(5) *Meetings.*

a. Meetings of the center are held at the call of the chairperson or when two members of the board request a meeting. The board generally meets quarterly at the authority's offices located at 200 East Grand Avenue in Des Moines, Iowa. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's website.

b. Meetings of the board and any committee it may establish are conducted in accordance with the provisions of Iowa Code chapter 21. Any person may attend and observe the proceedings of the board and committee meetings except for those portions of the meetings conducted in closed session pursuant to Iowa Code section 21.5. Persons observing may use cameras or recording devices during the meeting so long as the use of such devices does not interfere with the proceedings. The chairperson may order any person to discontinue the use of such a device if the chairperson believes it is causing an interference with the proceedings. The chairperson may have any person excluded who fails to comply with such an order. The chairperson may also exclude any person generally causing a disruption of the proceedings.

403.3(6) *Committees.* The board may, from time to time, establish advisory committees for purposes of overseeing the center, its programs, and its operations. Such committees include but are not limited to the following:

a. A grant committee, the purpose of which shall be to assist the board in making awards of grants under the center's programs.

(1) The grant committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the grant committee will elect a chairperson. The chairperson may appoint members of the grant committee to serve on a grant committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the grant committee may include reviewing applications for grant awards, conducting a thorough review of proposed grant applications, making recommendations to the board regarding the size and condition of grant awards, and any other duty assigned by the board in relation to the programs administered by the center.

(4) A majority of the committee members constitutes a quorum of the committee.

b. A loan committee, the purpose of which shall be to assist the board in making loan awards under the center's programs, including the alternate energy revolving loan program.

(1) The loan committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the loan committee will elect a chairperson. The chairperson may appoint members of the loan committee to serve on a loan committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the loan committee may include reviewing applications for loans, conducting a thorough review of proposed loan applications, making recommendations to the board regarding the size and condition of loans, and any other duty assigned by the board in relation to the programs administered by the center.

(4) A majority of the committee members constitutes a quorum of the committee.

These rules are intended to implement Iowa Code section 15.120.

ARC 3846C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rule making related to hazard mitigation plan and disaster recovery plan and providing an opportunity for public comment

The Department of Homeland Security and Emergency Management hereby proposes to amend Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 29C.8.

Purpose and Summary

This proposed rule making will formally adopt the Iowa Hazard Mitigation Plan and the Iowa Disaster Recovery Plan. Both plans are reviewed on a regular basis and, when needed, updated versions of the plans are adopted by the Department. Both plans are in the final steps of their review and public comment period, and the Department has targeted July 26, 2018, to formally adopt these updated plans. Additionally, in accordance with federal requirements, each plan will now be reviewed and amended as appropriate at a minimum of every five years.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. During times of major disaster as declared by the President, these plans are key to allowing federal recovery and mitigation funds to flow into the state. While the timing and scale of disasters cannot be predicted, these plans provide detail on how efforts and funding in the state will be applied to provide an effective recovery for Iowa. Since 1990, these plans have enabled $2.25 billion in federal recovery and mitigation funds to flow into 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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

John Benson
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50265
Email: john.benson@iowa.gov

Public Hearing

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

July 10, 2018	Cyclones Conference Room, Suite 500
11 a.m.	7900 Hickman Road
	Windsor Heights, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 605—9.3(29C) as follows:

605—9.3(29C) Part B: Iowa Hazard Mitigation Plan. The Part B: Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on ~~September 17, 2013~~ July 26, 2018, published, and maintained by the department. Part B details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

1. to 3. No change.

4. The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part B shall be reviewed and amended as appropriate at a minimum of every ~~three~~ five years.

5. No change.

ITEM 2. Amend rule 605—9.4(29C) as follows:

605—9.4(29C) Part C: Iowa Disaster Recovery Plan. The Part C: Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on ~~March 20, 2008~~ July 26, 2018, published, and maintained by the department. Part C details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

1. to 3. No change.

4. The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part C shall be reviewed and amended as appropriate at a minimum of every ~~three~~ five years.

5. No change.

ARC 3841C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Proposing rule making related to registration and continuing education and providing an opportunity for public comment

The Interior Design Examining Board hereby proposes to amend Chapter 2, "Registration," and Chapter 3, "Continuing Education," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The rules in Chapter 2 describe the process for registration. The proposed amendments to Chapter 2 clarify the continuing education requirements for reinstatement of registration and list the fee for a formal wall certificate in the fee section. The rules in Chapter 3 describe licensees' continuing education requirement as a condition of registration renewal. The proposed amendments to Chapter 3 rescind the definition of "self-directed activity" as the term is no longer used and modify the number of continuing education hours required.

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 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

Lori SchraderBachar
Interior Design Examining Board
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: lori.schraderbachar@iowa.gov

Public Hearing

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

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

July 10, 2018	Board Office, Suite 350
9 a.m.	200 East Grand Avenue
	Des Moines, Iowa

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

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

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 2.2(1) as follows:

2.2(1) It is the policy of the board to ~~mail~~ send to each registrant at the registrant's last-known address a notice of the pending expiration date approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

ITEM 2. Amend rule 193G—2.3(544C,17A) as follows:

193G—2.3(544C,17A) Reinstatement of certificates of registration. An individual may reinstate a lapsed certificate of registration to active registration by doing the following:

1. to 3. No change.

4. Submitting documented evidence of completion of ~~5 contact hours of continuing education for each year or partial year since the registrant's last renewal year in active status with a maximum of 20 contact hours.~~ 10 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 5 continuing education hours for each year or portion of a year of expired registration up to a maximum of 20 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects; be acquired in structured educational activities; and be in compliance with requirements in 193G—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal and shall not have been earned more than four years prior to the date of the application to reinstate.

ITEM 3. Amend rule 193G—2.4(544C) as follows:

193G—2.4(544C) Applications. Persons applying for initial, renewal, or reciprocal registration shall submit an application on a form provided by the board and shall pay a registration fee of $275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant's required renewal date shall pay half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration more than 12 months from the applicant's required renewal date shall pay the full registration fee.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

Type of fee	Amount
Initial registration fee	$275
Reciprocal registration fee	$275
Formal wall certificate	$50
Renewal	$275
Late renewal fee	$25
Reinstatement of lapsed registration	$100

ITEM 4. Rescind the definition of "Self-directed activity" in rule **193G—3.1(17A,272C,544C)**.

ITEM 5. Amend subrule 3.2(3) as follows:

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration shall not be required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for more than 12 months, but less than 24 months from the date of initial registration, shall be required to report ~~6~~ 5 contact hours ~~(with a minimum~~ of ~~4 contact hours in~~ HSW subjects in a structured activity~~)~~, earned in the preceding 12 months at the first registration renewal.

ARC 3848C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to review of correctional pharmacy practice rules and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 15, "Correctional Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 124.301 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.303, 124.306, 124.308, 126.10, 126.11, 155A.6A, 155A.6B, 155A.10, 155A.13, 155A.27, 155A.28, 155A.31 to 155A.36 and 155A.41.

Purpose and Summary

Pursuant to Iowa Code section 17.7(2), the Board has completed a review of this chapter of administrative rules. The proposed amendments update the required references to be maintained in a reference library in order to be consistent with recent Board action for other practice settings, remove the requirement that the policies and procedures identify the hours of operation of the pharmacy, clarify the record retention requirements for training documentation, and add the option of an electronic signature on prescription drug orders.

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.

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 657—15.4(155A) as follows:

657—15.4(155A) Reference library. ~~References may be printed or computer-accessed.~~ Each correctional pharmacy shall ~~have on site, at a minimum, one current~~ maintain a reference ~~from each of the following categories, including access to current periodic updates~~ library, which is either printed or computer-accessed and which adequately meets the needs of the services provided and patients served. Examples of references include:

1. A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.
2. A patient information reference that includes or provides patient information in compliance with rule 657—6.14(155A).
3. A reference on drug interactions.
4. A ~~general~~ drug information reference.
5. A drug equivalency reference.
6. A reference on natural or herbal medicines.
7. The readily accessible telephone number of a poison control center that serves the area.
8. Additional references ~~as may be necessary for the pharmacist to adequately meet the needs of the patients served~~ relating to specific patient populations served.

PHARMACY BOARD[657](cont'd)

ITEM 2. Amend subrule 15.5(3) as follows:

15.5(3) *Pharmacist responsibility.* Each pharmacist, while on duty, shall be responsible for the security of the correctional pharmacy. This responsibility includes provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs or devices, controlled substances, records for such drugs and devices, and patient records as provided in 657—Chapter 21 and rule 657—8.16(124,155A). ~~Policies and procedures shall identify the days and hours the pharmacy shall be open.~~ A pharmacist shall be on site during all times that the pharmacy is open.

ITEM 3. Amend rule 657—15.7(124,126,155A) as follows:

657—15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons. Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for ~~the duration of~~ at least two years from the last date of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

ITEM 4. Amend subrule 15.8(1) as follows:

15.8(1) *Required information.* Prescription drug orders written in patient health records shall include the following information:

a. Patient name, identification number, and correctional facility location;
b. Drug name, strength, dosage form, and quantity or duration;
c. Directions for use of the drug;
d. Date the prescription drug order is authorized;
e. Prescriber's name, signature or electronic signature, and office address;
f. Prescriber's DEA number for controlled substances.

ARC 3845C

PHARMACY BOARD[657]

Notice of Termination

Terminating rule making related to VA medications

The Pharmacy Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3510C**, proposing to amend Chapter 22, "Unit Dose, Alternative Packaging, and Emergency Boxes," Iowa Administrative Code.

Legal Authority for Rule Making

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

Purpose and Summary

The proposed rule making would have allowed pharmacies to repackage prescription drugs originally dispensed by a Veterans Administration (VA) pharmacy for a patient residing in a care facility and would have identified the minimum standard for such repackaging activities.

Reason for Termination

The Board received numerous comments in opposition to the proposed rule making. Comments conveyed a perceived expectation that pharmacies would be required to engage in such activities and expressed concern for the corresponding liability associated with repackaging medications dispensed by another pharmacy. The Board has decided to terminate this rule making to further evaluate the situation.

PHARMACY BOARD[657](cont'd)

Jobs Impact

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

Review by Administrative Rules Review Committee

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

ARC 3847C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Proposing rule making related to water quality initiative and providing an opportunity for public comment

The Soil Conservation and Water Quality Division hereby proposes to amend Chapter 16, "Water Quality Initiative," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 161A.7(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 512, sections 23 and 24.

Purpose and Summary

The proposed amendments update rules for the Water Quality Initiative to reflect changes made in 2018 Iowa Acts, Senate File 512, by adding new eligible practices. The proposed amendments identify the applicable standards for urban infrastructure program projects. Additionally, the 50 percent cost-share limitation would not apply to edge-of-field practices and land use changes. Some technical updates are also made.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, a positive impact on jobs has been found. While the majority of the impact comes from the legislation, the rules provide clarity and for ease of implementation of practices.

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 27—Chapter 8.

SOIL CONSERVATION AND WATER QUALITY DIVISION[27](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on July 10, 2018. Comments should be directed to:

Margaret Thomson
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: margaret.thomson@Iowaagriculture.org

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. Rescind the definition of "Eligible cost-share applicants" in rule **27—16.2(161A)**.

ITEM 2. Amend rule **27—16.2(161A)**, definitions of "Funds" and "Nutrient reduction strategy," as follows:

"Funds" include the water quality initiative fund in Iowa Code section 466B.45, include the water quality infrastructure fund in 2018 Iowa Acts, Senate File 512, sections 23 and 24, and may include other moneys appropriated to the department ~~from the environment first fund created in Iowa Code section 8.57A for cost sharing to match federal funds~~ or other nongovernmental funds.

"Nutrient reduction strategy" means the document created and updated by the department, the department of natural resources, and Iowa State University of Science and Technology ~~dated May 29, 2013~~ in order to assess and reduce nutrients in watersheds.

ITEM 3. Amend rule 27—16.3(161A) as follows:

27—16.3(161A,466B) Cost share. ~~The~~ Except for edge-of-field practices and land use changes, the division's share of the practice cost shall not exceed the lesser of 50 percent of the estimated cost of establishing the practice as determined by the division or 50 percent of the actual cost of the practice.

ITEM 4. Amend rule 27—16.4(161A) as follows:

27—16.4(161A,466B) Eligible practices. Only practices ~~applied to agricultural crop and pasture land~~ whose ~~primary~~ function ~~is to improve~~ improves water quality will be eligible for funds. These practices are identified in the nutrient reduction strategy or by the division. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out by the department. Urban infrastructure program projects shall meet the applicable

standards in the Iowa storm water management manual published by the department of natural resources. Permanent practices eligible for funding include but are not limited to wetlands, bioreactors, ~~and~~ buffers, structures, land use changes, terraces, waterways and managed drainage systems. Management practices eligible for funding include but are not limited to cover crops and living mulches. Application may be made to the division for cost-share funding for individual cost-share practices or for ~~targeted watershed demonstration~~ projects.

ITEM 5. Amend **27—Chapter 16**, implementation sentence, as follows:

These rules are intended to implement ~~2013~~ 2018 Iowa Acts, ~~House File 648, section 20, and Senate File 435, sections 8 and 10 and Iowa Code sections 466B.42 and 466B.45~~ Senate File 512.

USURY

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

July 1, 2017 — July 31, 2017	4.25%
August 1, 2017 — August 31, 2017	4.25%
September 1, 2017 — September 30, 2017	4.25%
October 1, 2017 — October 31, 2017	4.25%
November 1, 2017 — November 30, 2017	4.25%
December 1, 2017 — December 31, 2017	4.25%
January 1, 2018 — January 31, 2018	4.25%
February 1, 2018 — February 28, 2018	4.50%
March 1, 2018 — March 31, 2018	4.50%
April 1, 2018 — April 30, 2018	4.50%
May 1, 2018 — May 31, 2018	4.50%
June 1, 2018 — June 30, 2018	4.50%
July 1, 2018 — July 31, 2018	5.00%

ARC 3850C

UTILITIES DIVISION[199]

Notice of Intended Action

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

The Utilities Board hereby proposes to amend Chapter 6, "Complaint Procedures," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.3 and 476.103.

UTILITIES DIVISION[199](cont'd)

Purpose and Summary

The purpose of this rule making is to update and amend the Board's rules establishing procedures for informal and formal complaints. The Board issued an order requesting stakeholder comments on proposed amendments to Chapter 6, the Board's rules that establish procedures for filing informal and formal complaints with the Board. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Joint Utility Companies (Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy Company; Interstate Power and Light Company; ITC Midwest LLC; Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities; and MidAmerican Energy Company); the Iowa Association of Electric Cooperatives; and the Iowa Communications Alliance filed comments addressing the proposed amendments.

The Board reviewed the stakeholder comments and proposes the following amendments to the informal and formal complaint procedure rules to address some of the comments and clarify the Board's procedures. In addition to making editorial changes for clarification, the Board has separated the procedures for an informal complaint and the formal complaint request process, has proposed timelines for taking certain actions during the informal complaint process, and has proposed that the Board may open an informal investigation before issuing an order when a request for a formal complaint proceeding is made by pleading.

The Board issued an order on April 30, 2018, commencing this rule making. The order provides a full discussion of the proposed amendments and is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0012.

Fiscal Impact

These proposed amendments update and amend existing rules that are required to be followed by persons filing, and utilities responding to, complaints. No additional actions having a fiscal impact are being proposed.

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 since the Board has a general waiver provision in 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 July 10, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

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

July 24, 2018	Board Hearing Room
1 to 2:30 p.m.	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—6.1(476) as follows:

199—6.1(476) ~~Inquiry~~ General inquiries. Any person may seek assistance from the Iowa utilities board by appearing in person ~~or placing a telephone call to the Consumer Services Section, Iowa Utilities Board,~~ at the board's office at 1375 E. Court Avenue, Room 69, Des Moines, Iowa~~,~~; by mailing an inquiry to the board's office; by placing a telephone call to the board's customer service center at (515)725-7321 or toll-free (877)565-4450; or by sending an inquiry by electronic mail to customer@iub.iowa.gov. ~~Consumer services may advise the person of the application of the rules, inform the person of utility complaint procedures and advise of written complaint procedures before the board. However, the complaint procedures set forth below are available only after a written complaint is filed.~~ Customer service staff shall obtain the information necessary to either answer the inquiry or direct the person to the appropriate staff person who can provide a response.

ITEM 2. Amend rule 199—6.2(476) as follows:

199—6.2(476) ~~Complaint~~ Informal complaint procedures. ~~Any person or body politic may file a written complaint requesting a determination of the reasonableness of rates, charges, schedules, service, regulations or anything done or not done by a public utility subject to service or rate regulation by the board. Assistance may be requested in the following manner.~~ Any person may submit a written complaint to the board requesting a determination of the reasonableness of rates, charges, schedules, service, regulations, or anything done or not done by a public utility subject to service or rate regulation by the board. "Person" as used in this chapter shall include a person as defined in Iowa Code section 4.1(20).

6.2(1) *Information to be filed.* ~~Any person may, by filing a written complaint, request the board to determine whether the utility's charges, practices, facilities or services are in compliance with applicable statutes and rules established by the board, or by the utility in its tariff, and lawfully issued board orders. A written complaint may be filed by facsimile or electronic mail. If there is any question about the authenticity of the complaint, the complainant may be required to file a letter verifying the written complaint. The board may initiate a complaint on its own motion.~~ The written complaint should include the following information:

a. The name of the utility involved, any utility personnel known or believed to be familiar with the facts stated in the ~~letter~~ complaint, and the location of the office of the utility where the complaint was originally made and processed.

b. The name of the complainant. If the complaint is being ~~filed~~ made on behalf of a person other than the complainant, an affidavit from the person ~~injured by the practice about which the complaint~~

~~is made should be included stating that the complaint has been received and is believed to be true and accurate to the best of the knowledge of the injured person~~ upon whose behalf the complaint is being made that attests to the accuracy of the complaint should be included. A complaint filed by an organization on behalf of its members shall include an affidavit signed by an officer of the organization.

c. The address, or addresses, of the premises where the service, ~~or~~ billing problems, or other actions occurred and, if known, the telephone number and the account number of those premises. If the complainant resides at a different address, the complaint should also state where a response to the complaint is to be mailed. The complainant ~~may~~ shall also provide a telephone number and electronic mail address where the complainant can be reached ~~during the day~~.

d. The nature of the complaint, and efforts made to resolve the matter. ~~Documents—e.g., bills or~~ Bills, correspondence, ~~—~~ or other relevant documents should be included if ~~they~~ the documents will ~~add to~~ aid the board's understanding of the ~~utility~~ utility's action or practice about which the complaint is made. If known, references to statutes or rules believed to govern the outcome of the complaint should be included. Also, a description of the efforts made by the complainant to resolve the complaint with the utility should be included.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes, board orders, or rules ~~authorizing the remedy request~~ that support the resolution proposed by the complainant.

6.2(2) *Request for additional information.* If ~~the~~ board staff determines that additional information is needed ~~in order to resolve the complaint~~ prior to forwarding the complaint to the utility, the complainant will be notified that specified additional information should be ~~filed~~ provided. If the requested additional information is not provided within 20 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.

ITEM 3. Amend rule 199—6.3(476) as follows:

199—6.3(476) Processing the informal complaint. When the board receives ~~a~~ written complaint that includes the necessary information outlined in rule 199—6.2(476), ~~the~~ board staff shall initiate the informal complaint process by opening an investigation into the complaint and assigning the informal complaint a file number. The following informal complaint procedures ~~will~~ shall be followed during the investigation:

6.3(1) ~~The~~ Within ten days after receipt of the written complaint, or of any additional information requested, staff shall forward to the public utility and the consumer advocate the complaint ~~letter~~ and any ~~supplemental~~ additional information ~~filed~~ provided by the complainant ~~will be forwarded to the public utility~~.

~~**6.3(2)** A copy of the complaint and any supplemental information will be forwarded by the staff to the consumer advocate.~~

~~**6.3(3)**~~ **6.3(2)** The utility shall~~, within 20 days of the date on which the complaint is forwarded to the utility by the board, file a response~~ respond to the complaint ~~with the~~ to board staff and shall at the same time send a copy of its response to the complainant and the consumer advocate, within 20 days of the date the board staff forwards the complaint to the utility. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Staff shall notify the utility, the complainant, and the consumer advocate within five days whether the request for an extension is granted and of the length of the extension, if granted.

6.3(3) The utility shall specifically address each allegation made by the complainant and ~~recite~~ provide any supporting facts, statutes, rules, board orders, or tariff provisions supporting its response. The utility shall ~~enclose~~ include copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In cases involving confidential or privileged records, the response shall advise of the records' existence.

ITEM 4. Amend rule 199—6.4(476) as follows:

199—6.4(476) Proposed resolution of an informal complaint.

6.4(1) ~~When~~ After the ~~utility~~ utility's response is received, ~~the~~ staff may request ~~from any party any~~ additional information deemed necessary to complete the investigation and resolve the complaint. When ~~satisfied that~~ all necessary information has been ~~gathered~~ received and the investigation is complete, ~~the~~ staff ~~will respond by letter~~ shall, within 30 days, send a letter with a proposed resolution of the complaint to the complainant, ~~with a copy to~~ the utility, and the consumer advocate ~~acknowledging resolution of the complaint or proposing an appropriate resolution of the complaint~~.

6.4(2) ~~If the staff determines that the action required by the proposed resolution has not been carried out, or new facts arise, the record may be reopened by issuing notice to the parties of further investigation.~~ In the proposed resolution, board staff shall inform the parties of their right to request formal proceedings. If no party files a request for formal proceedings within 14 days pursuant to subrule 6.5(1), the parties shall be deemed to have accepted the proposed resolution which shall be binding. Once the proposed resolution is accepted, or deemed accepted, the parties shall comply with the terms and conditions of the proposed resolution.

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing that staff reopen the investigation to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation, regarding the complaint. The request to reopen the investigation shall be made within 14 days of issuance of the proposed resolution. Within five days of receiving the request, staff shall send a response to the request to reopen the investigation, either advising the parties that the investigation will be reopened and a second proposed resolution will be issued or denying the request. If the request to reopen the investigation is denied, the complainant, utility, or consumer advocate has 14 days from the issuance of the denial to request that the board open a formal complaint proceeding pursuant to subrule 6.5(1).

6.4(4) Failure by any person to comply with the proposed resolution shall be considered a new complaint, and the procedures in this chapter shall be followed to have that issue addressed by the board.

ITEM 5. Amend rule 199—6.5(476) as follows:

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* If the consumer advocate, the complainant, or the public utility ~~is dissatisfied~~ does not agree with the proposed resolution, a request for a formal complaint ~~proceedings~~ proceeding may be made in writing within 14 days of the issuance of the proposed resolution. ~~Parties will be informed of their right to request formal proceedings. A request for civil penalties, in accordance with Iowa Administrative Code 199—Chapter 8, may also be filed at this time. Failure to file a request for civil penalties at this time does not preclude a party from requesting civil penalties at a later date during formal proceedings. If no request for formal proceedings is made within 14 days after issuance of the proposed resolution or the specified date of utility action, the proposed resolution will be deemed binding on all parties. The board may initiate formal proceedings and seek civil penalties at any time on its own motion.~~ The request for a formal proceeding shall be considered as filed on the date of the United States Postal Service postmark, the date of electronic mail, or the date of in-person delivery to the board's customer service center. The request shall include the file number marked on the proposed resolution. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution. All parties to the informal complaint shall be provided copies of the request for a formal proceeding. Any other party to the informal complaint investigation may submit a response to the request for a formal proceeding within ten days of the date the request was submitted to the board.

6.5(2) *Request for a formal complaint proceeding by pleading.* ~~The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark, the date personal service is made, or the date received and accepted in the board's records and information center. The request shall be in writing and must be delivered by~~

~~United States Postal Service, other delivery service, personal service, or through the board's electronic filing system pursuant to 199—Chapter 14. The request shall include the file number (C-XX-XXX or C-XXXX-XXXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.~~ Any person may request that a formal complaint proceeding be opened. The board may conduct an informal investigation pursuant to rule 199—6.2(476) before granting or denying the request for a formal complaint proceeding. A person filing a request for a formal complaint proceeding shall participate in the informal complaint investigation.

6.5(3) *Request for formal complaint proceeding.* Upon receipt of a request for a formal complaint ~~proceedings, the~~ proceeding, whether based upon a proposed resolution or a pleading, board staff shall ~~consider whether~~ prepare a recommendation to the board whether to grant or deny the request for a formal complaint ~~proceedings should be initiated and issue an order~~ proceeding. ~~If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business pursuant to Iowa Code section 17A.19. If formal complaint proceedings are initiated, an order will be issued docketing the case as a formal complaint and granting or denying, in whole or in part, any temporary relief requested.~~ The board will review any investigation conducted by staff and staff's recommendation and shall issue an order either granting or denying a formal complaint proceeding. If the board grants the request for a formal complaint proceeding, the board will issue a procedural schedule or conduct a scheduling conference as required for a contested case proceeding.

ITEM 6. Amend rule 199—6.7(476) as follows:

199—6.7(476) Record. The written complaint and all ~~supplemental~~ information obtained during the informal investigation shall be uploaded into the electronic filing system formal complaint docket and shall be made part of the record in the formal complaint proceeding. The information from the informal complaint investigation shall be redacted pursuant to requirements in 199—Chapter 7.

ITEM 7. Amend **199—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 476.2, 476.3, 476.103 and 546.7 ~~and Iowa Code Supplement section 476.103~~.

ARC 3851C

UTILITIES DIVISION[199]

Notice of Intended Action

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

The Utilities Board hereby proposes to amend Chapter 8, "Civil Penalties," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.51, 476.103, 476A.14, 478.29, 479.31 and 479B.21.

UTILITIES DIVISION[199](cont'd)

Purpose and Summary

The purpose of this rule making is to update and amend the Board's rules establishing procedures for assessing civil penalties. The Board issued an order requesting stakeholder comments on proposed amendments to Chapter 8, the Board's rules that establish procedures for assessing civil penalties. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; and the Iowa Association of Electric Cooperatives filed comments addressing the proposed amendments. MidAmerican Energy Company filed a letter stating it did not have any comments.

The Board reviewed the stakeholder comments and proposes the following amendments to the Board's procedures for assessing civil penalties. The amendments are designed to more closely align the procedures with the statutes that authorize the Board to assess civil penalties. Specifically, the Board proposes to reference the statutory sections that authorize the Board to assess civil penalties; clarify that the Board may assess civil penalties for willful and nonwillful violations of the statutes, Board rules, or Board orders; require filing a request for civil penalties electronically in the Board's electronic filing system; and provide that the Board will schedule a hearing based upon the circumstances of the violation.

The Board issued an order on April 30, 2018, commencing this rule making. The order provides a full discussion of the proposed amendments and is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0023.

Fiscal Impact

These proposed amendments update and amend existing rules that are required to be followed for requests for civil penalties. No additional actions having a fiscal impact are being proposed.

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 since 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 July 10, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

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

July 24, 2018	Board Hearing Room
2:30 to 4 p.m.	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—8.1(476) as follows:

199—8.1(476,476A,478,479,479B) Civil penalty ~~for willful violation~~. The board may assess ~~a penalty against a public utility upon finding that the utility willfully violated a provision of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board.~~ civil penalties pursuant to the following statutes:

~~A willful violation exists where the evidence shows that the utility intentionally or knowingly violated a board rule, a provision of an order lawfully issued by the board in a proceeding involving the same utility, or a provision of Iowa Code chapter 476.~~

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

8.1(1) Pursuant to Iowa Code section 476.51 for a violation of a provision of Iowa Code chapter 476, a rule adopted by the board, or a provision of an order issued by the board. For a continuing violation, the board may specify a time for curing the violation before assessing a penalty. The time specified for curing the violation is a case-by-case determination based upon the factors of the violation. A "willful" violation means knowing and deliberate action taken with a specific intent to violate.

8.1(2) Pursuant to Iowa Code section 476.103 for an unauthorized change in communications service.

8.1(3) Pursuant to Iowa Code section 476A.14 for unauthorized construction, operation, or maintenance of a facility as defined in Iowa Code chapter 476A without first obtaining a certificate issued by the board or a waiver of the certificate requirement.

8.1(4) Pursuant to Iowa Code section 478.29 for a violation of electric transmission line franchise requirements.

8.1(5) Pursuant to Iowa Code section 479.31 for a violation of the permit requirements for a pipeline or underground gas storage facility.

8.1(6) Pursuant to Iowa Code section 479B.21 for a violation of the permit requirements for a hazardous liquid pipeline or any order issued in accordance with Iowa Code chapter 479B.

ITEM 2. Amend rule 199—8.2(476) as follows:

199—8.2(476,476A,478,479,479B) Procedure. A request for ~~imposition of~~ civil penalties must be made within 180 days of the date the party filing the request knew or should have known of the alleged violation. The request shall be ~~considered as filed on the date of the United States Postal Service postmark or the date personal service is made~~ filed in the board's electronic filing system, efs.iowa.gov/efs/. ~~The request shall be in writing and must be delivered by United States Postal Service or personal service. The 180-day limit is tolled by commencing an informal complaint proceeding in accordance with Iowa~~

~~Administrative Code 199—Chapter 6.~~ If the board determines that a formal proceeding is required to consider a request for civil penalties, the board will establish a procedural schedule, which shall include notice and an opportunity for a hearing.

~~**8.2(1)** *Request by nonboard party.* As a part of a request for a formal proceeding in accordance with Iowa Administrative Code 199—6.5(476) or as part of any other contested case proceeding, the consumer advocate or any other person may request the board to impose civil penalties against a utility for a willful violation of a provision of Iowa Code chapter 476, a board rule, or an order lawfully issued by the board in a proceeding involving the same utility.~~

~~In a complaint proceeding, the request for imposition of civil penalties must appear on the face of a request for formal proceeding filed in accordance with the provisions of Iowa Administrative Code 199—Chapter 6. Upon receiving approval from the board, a party may amend its request for a formal proceeding to request the board to impose civil penalties at any time prior to the close of the submission of evidence. In any other contested case proceeding, the request must be made by written motion prior to the close of the submission of evidence.~~

~~**8.2(2)** *Board request.* On its own motion, the board may raise the issue of imposing civil penalties against a utility for a willful violation of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board in a proceeding involving the same utility, as part of a contested case proceeding with adequate notice or by commencing a formal complaint proceeding in accordance with the provisions of Iowa Administrative Code 199—Chapter 6.~~

~~**8.2(3)** *Hearing.* If necessary, a hearing shall be held in accordance with the provisions of Iowa Administrative Code 199—Chapter 6 where there is an issue of adjudicative fact. The utility may waive its right to a hearing. A separate hearing on an adjudicative fact is not required if the same issue of adjudicative fact has been fully litigated by the identical parties with adequate notice as part of a contested case proceeding.~~

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 3. Amend rule 199—8.3(476) as follows:

199—8.3(476,476A,478,479,479B) Penalties assessed. ~~The board, in its discretion, may levy penalties of not more than $100 per violation or $1000 per day of a continuing violation, whichever is greater.~~ Each violation is a separate offense. In the case of a continuing violation, each day a violation continues is a separate and distinct offense. Any civil penalty may be compromised by the board.

~~In determining the amount of penalty to be imposed for a willful violation, the board may consider the following factors in exercising its statutory discretion to impose civil penalties up to the maximum amount:~~

~~1. Gravity of the offense;~~

~~2. The utility's prior record of Code, rule, and order violations;~~

~~3. The actual or potential harm or injury to an individual or the public resulting from the violation.~~

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 4. Amend rule 199—8.4(476) as follows:

199—8.4(476,476A,478,479,479B) Payment of penalty. Civil penalties collected shall be paid in accordance with Iowa Code section 476.51, 476.103, 476A.14, 478.29, 479.31, or 479B.21, and any other applicable provision. The remittance shall be made payable to the Iowa Utilities Board and forwarded to the ~~Executive Secretary,~~ Iowa Utilities Board, 1375 E. Court Avenue, ~~Room 69,~~ Des Moines, Iowa 50319-0069. Remittance must be made within 35 days after ~~final agency action~~ assessment of the penalty unless otherwise ordered by the board.

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 5. Amend rule 199—8.5(476) as follows:

199—8.5(476,476A,478,479,479B) Rate-regulated utilities. A penalty assessed by the board pursuant to this rule against a rate-regulated utility ~~must be recorded by the utility as a below-the-line,~~

~~miscellaneous deduction from the income account~~ shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included directly or indirectly in the utility's rates or charges to customers.

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 6. Adopt the following **new** implementation sentence in **199—Chapter 8**:

These rules are intended to implement Iowa Code sections 476.51, 476.103, 476A.14, 478.29, 479.31 and 479B.21.

ARC 3852C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to utility management efficiency and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 29, "Management Efficiency Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2 and 476.52.

Purpose and Summary

The purpose of this rule making is to update and amend the Board's rules establishing standards for evaluation of rate-regulated utilities' management efficiency as required in Iowa Code section 476.52. The Board issued an order requesting stakeholder comments on proposed amendments to the evaluation of management efficiency rules in Chapter 29. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Iowa American Water Company; and MidAmerican Energy Company and Interstate Power and Light Company (Jointly) filed comments addressing the proposed amendments.

The Board reviewed the stakeholder comments and reviewed the current rules and proposes the following amendments to the evaluation standards for management efficiency. These proposed amendments update the language in the chapter and apply the statutory authority provided the Board in Iowa Code section 476.52.

The Board issued an order on April 24, 2018, commencing this rule making. The order provides a full discussion of the proposed amendments and is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0037.

Fiscal Impact

These proposed amendments update and amend existing rules that are required to be promulgated for evaluation of rate-regulated utilities management efficiency. No additional actions having a fiscal impact are being proposed.

Jobs Impact

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

UTILITIES DIVISION[199](cont'd)

Waivers

No waiver provision is included in the proposed amendments since 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 July 10, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

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

July 24, 2018	Board Hearing Room
9 to 11 a.m.	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 29**, title, as follows:

MANAGEMENT EFFICIENCY ~~STANDARDS~~ EVALUATION

ITEM 2. Amend rule 199—29.1(476) as follows:

199—29.1(476) Policy and purpose. It is the policy of the board that a public utility shall be operated in an efficient manner. This chapter describes the methodology ~~to be used for evaluating~~ by which the board may evaluate the management efficiency of a rate-regulated utility ~~management~~ and the ~~manner in which those evaluations will be used~~ actions that the board may take upon a finding as to the efficiency of a utility's management.

ITEM 3. Amend rule 199—29.2(476) as follows:

199—29.2(476) Efficiency considered in a complaint or rate case proceeding. In ~~formal~~ a complaint proceeding conducted pursuant to Iowa Code section 476.3 or in a rate ~~proceedings~~ proceeding conducted

~~under~~ pursuant to Iowa Code ~~chapter 476~~ section 476.6, the board may ~~consider~~ determine whether ~~the~~ a public utility subject to rate regulation is being operated in an efficient or inefficient manner. ~~All utilities will be evaluated according to the procedure set forth in~~ In making such a determination, the board shall evaluate the management of the utility in the manner prescribed by rule 199—29.3(476). ~~If the board finds the utility is poorly managed or exceptionally well managed, the board may establish a penalty or reward, respectively, as provided in rule 29.4(476).~~ Any adjustment to a utility's level of profit (return on equity) or revenue requirement shall be made in compliance with Iowa Code section 476.52.

ITEM 4. Amend rule 199—29.3(476) as follows:

199—29.3(476) Management efficiency ~~standards~~ evaluation. The board may evaluate a utility's management efficiency based upon the utility's particular circumstances and considering a range of factors that may differ among utilities. In evaluating a utility's management efficiency, the board may consider any of the factors listed in subrule 29.3(1) and any additional relevant factors. No single factor will be deemed conclusive evidence of efficiency or inefficiency. In performing the evaluation, the board may collect data to compare a utility to other rate-regulated utilities providing the same service within the state of Iowa. The board may consider data for time periods outside a rate case test year.

29.3(1) ~~*In general.*~~ *Factors.* ~~The efficiency or inefficiency of a utility will be evaluated on a case-by-case basis, based upon the utility's particular facts and circumstances. Utility management efficiency does not lend itself to an absolute measure due to the vast array of extremely important factors that may vary from area to area. These include such things as customer mix, territory of the utility, economic conditions in the areas served, weather patterns and disasters. The reality of change, and the ability of management to anticipate and respond to these changes, greatly affect any judgment of management efficiency or inefficiency, and must be considered in establishing any rewards for efficiency or penalties for inefficiency.~~

~~When evaluating a utility, the board may consider any of the factors listed in this subrule and any additional relevant information. These factors will be guidelines for evaluating a utility's efficiency or inefficiency. No single factor or group of factors will be deemed conclusive evidence of efficiency or inefficiency. In considering those factors, the board may collect data to compare a utility, except a water utility, to other utilities providing the same service in the state.~~ The board may consider the following factors:

a. The price per unit of service (including amounts collected subject to refund) by customer class and type of service. ~~For natural gas utilities, one "unit of service" is 1000 BTUs.~~

b. Operation and maintenance costs per unit of service. Low operations and maintenance costs ~~will not be deemed indicative~~ may not support a finding of efficiency if quality of service is substandard. ~~This data, when required, shall be reported on a total company basis and on an Iowa jurisdictional basis if the company serves jurisdictions other than Iowa.~~

c. Quality of service, as reflected ~~by~~ in objective measures of service quality, customer complaints shown in company and board records, findings made in complaint proceedings, penalties assessed, and measures of customer satisfaction.

d. ~~Officer compensation~~ Customer mix.

~~(1) Gas and electric utilities.~~ The total compensation ~~for electric and gas utilities~~ for each officer of the utility. ~~The utility, when required, shall provide this information both for the utility and for the parent/holding company.~~

~~(2) Telephone utilities:~~

~~1. The five largest total compensation packages that are expensed or capitalized to Iowa's regulated operations by the utility or its affiliates, and~~

~~2. The five largest total compensation packages for officers or employees stationed in Iowa.~~

~~Each telephone company, when required, shall provide this information and shall indicate what portions of the compensation packages in 29.3(1)*"d"*(2)"2" are allocated to Iowa-regulated operations.~~

e. The company's bad debt ratio.

f. Innovative ~~ideas~~ practices implemented by utility management that result in improved service or that control costs.

g. ~~Other factors the board determines to be relevant in an individual proceeding~~ Geographic service territory.

h. Economic conditions in the areas served.

i. Weather patterns and disasters.

29.3(2) *Electric utilities.* When evaluating an electric utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to electric utilities including the following ~~factors in addition to the factors listed in subrule 29.3(1)~~:

a. Fuel cost per kwh.

b. Availability for each generating unit with 2,000 or more service hours per year.

c. ~~Company-wide~~ Companywide load factor.

d. Development and implementation of energy efficiency programs.

29.3(3) *Natural gas utilities.* When evaluating a natural gas utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to natural gas utilities including the following ~~factors in addition to the factors listed in subrule 29.3(1)~~:

a. Total cost per unit of gas purchased ~~by distribution companies~~ from ~~the~~ a pipeline (to be considered separately from operations and maintenance costs).

b. Total cost per unit of gas purchased ~~gas~~ from other sources (to be considered separately from operations and maintenance costs).

c. Residential and commercial sales volume in relation to investment in the system (rate base).

d. Unaccounted-for gas as a percentage of total sales volume.

e. Development and implementation of energy efficiency programs.

~~**29.3(4)** *Telephone utilities.* When evaluating a telephone utility, the board may consider the following factors in addition to the factors listed in subrule 29.3(1):~~

~~*a.* Total plant investment per customer.~~

~~*b.* Quality of service, as reflected by the percentage of customers with access to specific types of service.~~

~~**29.3(5)** *Water utilities.* Water utilities will not be evaluated by comparison with other water utilities. Satisfactory management of water utilities will be presumed unless the contrary is established in an individual proceeding under Iowa Code chapter 476.~~

ITEM 5. Amend rule 199—29.4(476) as follows:

199—29.4(476) Rewards and penalties. ~~In the course of a proceeding conducted under Iowa Code chapter 476, the board will determine whether a utility is being managed well or poorly. In making this determination, the board will not be limited to test year data. If the board determines that a utility is being managed exceptionally well, the board will adjust the return on common equity upward to reflect the degree of management efficiency. If the board determines that a utility, except a rural electric cooperative, is being poorly managed, the board will adjust the return on common equity downward to reflect the degree of management inefficiency. When a rural electric cooperative is shown to be poorly managed, the board will disallow from the revenue requirement all travel expenses for the board of directors and manager. The board will not establish any reward or penalty if the board finds the utility has been managed satisfactorily but not exceptionally well or poorly, because satisfactory management is expected from all public utilities.~~ If the board makes a determination as to the efficiency of the management of a utility pursuant to rule 199—29.2(476), except for an electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the utility's return on common equity or revenue requirement as allowed pursuant to Iowa Code section 476.52. Upon making a determination as to the efficiency of the management of a rural electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the rates charged by the cooperative as part of an adjustment to the utility's revenue requirement.

ARC 3844C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed Emergency

Rule making related to meetings of and voting by the commission

The College Student Aid Commission hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261.

Purpose and Summary

Amendments to subrule 1.2(3) were Adopted and Filed and published in the March 28, 2018, Iowa Administrative Bulletin as **ARC 3699C**. On April 9, 2018, the Administrative Rules Review Committee expressed concern regarding the language clarifying the number of meetings held annually by the Commission and the definition of affirmative votes. Pursuant to Iowa Code section 17A.4(7), the Committee voted to delay the effective date of **ARC 3699C** for 70 days, allowing Commission staff to propose amendments to address Committee concerns. At its May 8, 2018, meeting, the Administrative Rules Review Committee reviewed language proposed by Commission staff and, pursuant to Iowa Code section 17A.4(3), approved the Emergency adoption of the amendments.

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

Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are unnecessary or impractical because Emergency adoption was approved by the Administrative Rules Review Committee.

In compliance with Iowa Code section 17A.4(3)"a," the Administrative Rules Review Committee at its May 8, 2018, meeting reviewed the Commission's determination and this rule making and approved the Emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commission also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on May 18, 2018. The Adopted and Filed Emergency amendments will become effective prior to the delayed effective date of **ARC 3699C**, conferring a benefit by ensuring that the language in **ARC 3699C** is not effective prior to the adoption of the corrective language contained in this rule making.

Adoption of Rule Making

This rule making was adopted by the Commission on May 18, 2018.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 3843C** to allow for public comment.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on May 18, 2018.

The following rule-making action is adopted:

Amend subrule 1.2(3) as follows:

1.2(3) *Meetings.* The commission shall meet at regular intervals at least six times annually, but not more than eight times in person annually. ~~The commission may hold additional regular meetings from time to time during the year as deemed necessary and with proper notice to the public. Additional meetings also may be called at the discretion of the chairperson.~~

a. The chairperson of the commission presides at each meeting. Members of the public may be recognized at the discretion of the chairperson. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

b. The commission shall give advance public notice of the time and place of each commission meeting. The notice will include the specific date, time, and place of the meeting.

c. A quorum shall consist of two-thirds of the voting members of the commission. When a quorum is present, a position is carried by an affirmative vote of the majority of commission members eligible to vote. ~~A commissioner who is present at a meeting of the commission at which action on any matter is taken shall be presumed to have assented to the action taken unless the commissioner's dissent or abstention is recorded in the minutes of the meeting or unless, before adjournment of the meeting, the commissioner files written dissent to such action with the person who is acting as the secretary of the meeting. The right to dissent shall not apply to a commissioner who voted in favor of an action.~~

d. A specific time is set aside at each meeting for the public to address the commission. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the commission during this portion of the meeting are required to notify the commission's administrative secretary prior to the meeting. The person's name and the subject of

the person's remarks must be provided. To accommodate maximum public participation, members of the public are encouraged to submit requests at least 72 hours in advance of the meeting.

[Filed Emergency 5/18/18, effective 5/18/18]
[Published 6/20/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3853C

ARCHITECTURAL EXAMINING BOARD[193B]

Adopted and Filed

Rule making related to professional architectural services

The Architectural Examining Board hereby amends Chapter 5, "Exceptions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 544A.29.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 544A.18.

Purpose and Summary

The rules in Chapter 5 provide definitions of structures and describe when professional architectural services are needed. These amendments provide greater clarity both to building officials and members of the public as to when the services of an architect are required.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 28, 2018, as **ARC 3661C**. A public hearing was held on March 20, 2018, at 9 a.m. at the Board office, Suite 350, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. The Board received four comments: two were questions about the exceptions matrix, one suggested a change in wording, and one was a statement of support. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 17, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 193B—5.1(544A) as follows:

193B—5.1(544A) Definitions. The following definitions apply as used in Iowa Code chapter 544A~~,~~ and this chapter of the architectural examining board rules~~, unless the context otherwise requires~~.

"Accessory buildings" means ~~one or more buildings separate from, but accessory to, a main building, including, but not limited to, a garage or storage building serving a main building.~~ a building or structure of an accessory character and miscellaneous structures not classified in any specific occupancy or use. "Accessory buildings" shall be constructed, equipped and maintained to conform to the requirements corresponding to the fire and life hazard incidental to the buildings' occupancy. "Accessory buildings" is intended to encompass the uses listed in Group U of the 2015 International Building Code®.

"Agricultural building" means a structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products. For the purpose of this definition, this structure shall not contain habitable space or a place of employment where agricultural products are processed or treated or packaged; nor shall it be a place used by the public.

"Alter" or *"alteration"* means any change, addition or modification to an existing building in its construction or occupancy.

~~*"Basement"* means any floor level below the first story in a building, except that a floor level in a building having only one floor shall be classified as a basement unless such floor level qualifies as a first story as defined herein.~~

"Church" means a building or portion thereof intended for the performance of religious services.

"Commercial" or *"commercial use"* means ~~any of~~ the following:

~~- A building used for buying, selling or exchange of goods or services,~~
~~- Drinking and dining establishments having an occupant load of fewer than 50,~~
~~- Wholesale and retail stores,~~
~~- Office buildings,~~
~~- Printing plants,~~
~~- Factories and workshops, and~~
~~- Buildings or portions of buildings having rooms used for educational purposes beyond the twelfth grade, with fewer than 50 occupants in any room.~~

~~"Commercial" does not include the other uses described herein:~~

~~- Accessory buildings,~~
~~- Educational buildings,~~
~~- Factory-built buildings,~~
~~- Governmental-use buildings,~~
~~- Industrial-use buildings,~~
~~- Institutional-use buildings,~~
~~- Hazardous-use buildings,~~
~~- Light industrial,~~
~~- Places of assembly,~~
~~- Residential dwellings, and~~
~~- Warehouses.~~

1. The use of a building or structure, or a portion thereof, for office, professional, or service-type transactions, including storage of records and accounts.

2. The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, including wares or merchandise incidental to such purposes and accessible to the public.

"Commercial use" is intended to encompass the uses listed in Group B and Group M of the 2015 International Building Code®.

"Detached" means a structure separated by distance and not connected to another structure.

"Dwelling unit" means ~~any building or portion thereof which contains~~ a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, ~~or~~ cooking and sanitation~~, for not more than one family, or a congregate residence, such as a group home for ten or fewer persons~~.

"Educational use" means ~~a building used for educational purposes through the twelfth grade for more than 12 hours per week or more than 4 hours in any one day, and any building used for day-care purposes for more than six children~~ the use of a building or structure, or a portion thereof used (1) by six or more persons at any one time for education purposes through twelfth grade; or (2) by six or more children for day care purposes. Rooms and spaces within places of religious worship providing such day care during religious functions and day cares serving five or fewer children shall be classified as part of the primary occupancy. "Educational use" is intended to encompass the uses listed in Group E of the 2015 International Building Code®.

"Factory-built buildings" means ~~buildings that have been designed, engineered, fabricated and wholly or partly assembled in a manufacturing facility for assembly and installation on a building site. A preengineered building utilizing standard building components assembled on the building site is not considered a "factory-built building." Such factory-built buildings, in order to qualify for the exception established by Iowa Code section 544A.18, must either:~~ any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. "Factory-built buildings" includes the terms "mobile home," "manufactured home," and "modular home."

~~1. Not exceed limitations on size and use established by Iowa Code section 544A.18, or~~

~~2. The seal applied by a professional engineer or architect shall apply to the entire assembly, not a specific element of the assembly.~~

"Family dwelling unit" ~~is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family. Congregate residences, such as group homes, are not "family dwelling units."~~ means the same as "dwelling unit."

~~*"Governmental use"* means a building or portion of a building owned or occupied by a municipal, county, state, federal, or other public agency including, but not limited to, municipal fire and police stations and libraries.~~

"Gross floor area" means ~~the aggregate floor area of an entire building enclosed by and including the surrounding exterior walls, and including the aggregate total area of existing, new and additional construction which is physically connected by enclosed space~~ the area included within the surrounding exterior walls of a building. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the supporting structure of the roof or floor above.

"Habitable space (room)" means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered "habitable space."

"Hazardous use" means the use of a building or structure, or a portion thereof, which involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. "Hazardous use" is intended to encompass the uses listed in Group H of the 2015 International Building Code®.

"Industrial use" means ~~any of the following:~~ the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations that are not classified as hazardous use. "Industrial use" is intended to encompass the uses listed in Group F of the 2015 International Building Code®.

~~● A building used for the manufacturing, fabrication, or assembly of goods or materials including aircraft hangars;~~

~~● Open parking garages;~~

- ~~Helistops;~~
- ~~Ice plants;~~
- ~~Power plants;~~
- ~~Pumping plants;~~
- ~~Cold storage and creameries; and~~
- ~~Factories and workshops.~~

"Institutional use" means ~~any of the following:~~ the use of a building or structure, or a portion thereof, in which persons are receiving custodial or medical care, in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Day care facilities as defined in educational use are not considered institutional uses. "Institutional use" is intended to encompass the uses listed in Group I of the 2015 International Building Code®. Facilities with five or fewer persons receiving custodial care may be considered a residential use or be considered part of the primary occupancy as listed in Group I of the 2015 International Building Code®.

- ~~Nurseries for the full-time care of children under the age of six, accommodating more than five persons;~~
- ~~Hospitals;~~
- ~~Sanitariums;~~
- ~~Nursing homes;~~
- ~~Homes for children six years of age or over, accommodating more than five persons;~~
- ~~Mental hospitals, mental sanitariums, jails, prisons, reformatories, and buildings where personal liberties of persons are similarly restrained;~~
- ~~Group homes; and~~
- ~~Adult day-care facilities.~~

"International Building Code" is a model building code developed by the International Code Council. The 2015 International Building Code® is available from the state library of Iowa or the board or online at codes.iccsafe.org.

"Light industrial" means buildings ~~used solely to house industrial use that are~~ not more than one story in height and not exceeding 10,000 square feet in gross floor area~~, or are not more than two stories in height and not exceeding 6,000 square feet in gross floor area~~ that involve fabrication or manufacturing of noncombustible materials which, during finishing, packing, or processing, are not classified as hazardous use.

"Mixed building use" means a building containing more than one use classification.

"Nonstructural alterations" means modifications to an existing building which do not include any changes to structural members of a building, or do not modify means of egress, handicap accessible routes, fire resistivity or other life safety concerns.

"Occupancy" means ~~the~~ a purpose for which a building, or part thereof, is used or intended to be used.

~~*"Office use"* means a building housing a commercial use.~~

"Outbuildings" ~~has~~ means the same ~~meaning~~ as "accessory buildings."

"Place of assembly of people or public gathering" means ~~a building or a portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining, or awaiting transportation~~ the use of a building or structure, or a portion thereof, for the gathering of persons such as for civic, social, or religious functions; recreation, food or drink consumption; or awaiting transportation. "Place of assembly of people or public gathering" is intended to encompass the uses listed in Group A of the 2015 International Building Code®. Places of assembly with occupancy of fewer than 50 people shall be considered part of the primary occupancy.

"Residential use" ~~includes hotels, apartment houses, dwellings, and lodging houses~~ means the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an institutional use. "Residential use" is intended to encompass the uses listed in Group R of the 2015 International Building Code®.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above~~, except that the topmost story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1829 mm) above grade for more than 50 percent of the total perimeter or is more than 12 feet (3658 mm) above grade at any point, such usable or unused under-floor space shall be considered a story~~.

~~*"Story, first"* means the lowest story of a building which qualifies as a story, as defined herein, except that the floor level in a building having only one floor level shall be classified as a first story, provided such floor is not more than 4 feet (1219 mm) below grade for more than 50 percent of the total perimeter, or not more than 8 feet (2438 mm) below grade at any point.~~

"Structural members" consists of building elements which carry an imposed load of weight and forces in addition to their own weight including, but not limited to, loads imposed by forces of gravity, wind, and earthquake. Structural members include, but are not limited to, footings, foundations, columns, load-bearing walls, beams, girders, purlins, rafters, joists, trusses, lintels, and lateral bracing.

~~*"Structure"* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.~~

"Use" ~~has~~ means the same ~~meaning~~ as "occupancy."

"Warehouses" or *"warehouse use"* means ~~a building used for the storage of goods or materials~~ the use of a building or structure, or portion thereof, for storage that is not classified as a hazardous use. "Warehouse use" is intended to encompass the uses listed in Group S of the 2015 International Building Code®.

ITEM 2. Amend rule 193B—5.3(544A) as follows:

193B—5.3(544A) Building use ~~takes priority over size.~~ ~~In all cases~~ The following criteria shall be used when applying the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A)~~,~~:

5.3(1) Building use takes priority over size. In all cases, the use of the building takes priority over the size. For example, a place of assembly ~~or governmental use~~ is not a commercial use, and would not constitute an exception even if the building is not more than one story in height and does not exceed more than 10,000 square feet in gross floor area.

5.3(2) Mixed building use. In the case that a building contains more than one use, the most stringent use is applied to the entire building when applying the exceptions. For example, a two-story building containing a 6,000 square foot commercial space as well as 6,000 square feet of residential space on the second floor would be considered a 12,000 square foot, two-story commercial building for the purposes of the exception matrix.

5.3(3) Agricultural buildings. Activities inherent to housing farm implements, farm inputs, farm products, and livestock or other agricultural products, such as record keeping, sanitation, storage of farm inputs, or equipment preparation, repair, or modifications, shall not be construed as a use in and of itself for the purposes of applying the exceptions. For example, welding operations to repair an implement or grain-handling equipment would not trigger the consideration of an agricultural building or a portion of the building as an industrial use.

5.3(4) Churches and accessory buildings. When under the height and gross floor area noted in the exception and encompassing uses inherent to a church or an accessory building as defined, these buildings are exempted, even if the use within the building would normally not be exempted. For example, a church used as a place of assembly with occupancy of more than 50 people but still under the height and gross floor area noted would still be exempted even though the occupancy would place the building in the nonexempted category.

ITEM 3. Amend rule 193B—5.4(544A) as follows:

193B—5.4(544A) Exceptions matrix. The following matrix is compiled to illustrate the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A). The laws and rules governing the Practice of Engineering are not illustrated herein.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

BUILDINGS NEW CONSTRUCTION			
Building Use Type	**Description**	**Architect Required**	**Architect May Not Be Required**
Agricultural use	Including grain elevators and feed mills		X
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet of gross floor area	X	
	More than two stories in height	X	
Detached residential use	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational use		X	
~~Governmental use~~		~~X~~	
Hazardous use		X	
Industrial use		X	
Institutional use		X	
Light industrial use			X
Places of assembly		X	
Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-built buildings	Any height and size, if certified by a professional engineer licensed under Iowa Code chapter 542B		X
	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	**Description**		**Architect Required**	**Architect May Not Be Required**
Structural alterations to exempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns			X
Structural alterations to nonexempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X	
Nonstructural alteration	Which does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns			X
	Which maintains the previous type of use			X
Nonstructural alteration which changes the use of the building from any other use to:	A place of assembly of people or public gathering		X	
	~~Governmental use~~		~~X~~	
	Educational use		X	
	Hazardous use		X	
	~~A place of residence~~ Residential use exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		X
	~~A place of residence~~ Residential use not exempted otherwise	and is more than three stories in height	X	
		and containing more than 12 family dwelling units	X	
Nonstructural alterations which change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	
Nonstructural alterations to:	Agricultural use	Including grain elevators and feed mills		X
	Churches and accessory building uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	

ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	**Description**		**Architect Required**	**Architect May Not Be Required**
	Detached residential buildings	One, two or three stories in height, containing 12 or fewer family dwelling units		X
		More than 12 family dwelling units	X	
		More than three stories in height	X	
		Outbuildings in connection with detached residential buildings		X
	Educational use		X	
	~~Governmental use~~		~~X~~	
	Hazardous use		X	
	Industrial use		X	
	Institutional use		X	
	Light industrial use			X
	Places of assembly		X	
	Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		More than one story in height	X	
	Factory-built buildings	Any height and size if entire building is certified by a professional engineer licensed under Iowa Code chapter 542B		X
		One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X
		One or two stories in height, greater than 20,000 square feet in gross floor area	X	
		More than two stories in height	X	
		More than 20,000 square feet in gross floor area	X	

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[Published 6/20/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3854C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to membership of commission and removal of a tuition grant program

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3711C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on May 18, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

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

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

the house of representatives each appoint one ex officio, nonvoting commission member. The director of the department of education serves as a continuous member of the commission and may appoint a designee to represent the department of education.

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

[Filed 5/30/18, effective 7/25/18]
[Published 6/20/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3855C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to documentation of mental health services

The Human Services Department hereby amends Chapter 24, "Accreditation of Providers of Services to Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 225C.6 and 2017 Iowa Acts, House File 653, section 93.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.6 and 2017 Iowa Acts, House File 653, section 93.

Purpose and Summary

The requirements for documentation of the provision of mental health, intellectual disability or developmental disability services in the areas of social history, assessment, documentation of service provision, supported community living service-functional assessment, and emergency services to be in a narrative format are removed. These amendments will allow documentation to be made using a checkbox or other format.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3732C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Mental Health and Disability Services Commission on May 17, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. This is a change to certain documentation requirements in disability services providers' records and will result in no fiscal impact to the state.

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 441—1.8(17A,217).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on August 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **24.4(1)"b"(1)** as follows:

(1) The organization collects and documents relevant historical information and organizes the information in one distinct document ~~in a narrative format~~.

ITEM 2. Amend paragraph **24.4(2)"b"** as follows:

b. Performance indicators.

(1) and (2) No change.

~~(3) Staff develop and complete the assessment in a narrative format.~~

~~(4)~~ (3) Staff base decisions regarding the level, type and immediacy of services to be provided, or the need for further assessment or evaluation, upon the analysis of the information gathered in the assessment.

~~(5)~~ (4) Staff complete an annual reassessment for each individual using the service and document the reassessment ~~in a written format~~.

~~(6)~~ (5) Documentation supporting the diagnosis is contained in the individual's record. A diagnosis of ~~mental retardation~~ intellectual disability is supported by a psychological evaluation conducted by a qualified professional. A diagnosis of developmental disability is supported by professional documentation. A determination of chronic mental illness is supported by a psychiatric or psychological evaluation conducted by a qualified professional.

ITEM 3. Amend subparagraph **24.4(4)"b"(3)** as follows:

(3) Documentation of service provision is in a legible, written~~, legible, narrative~~ format in accordance with organizational policies and procedures.

[Filed 5/17/18, effective 8/1/18]
[Published 6/20/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3856C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to conveyances

The Elevator Safety Board hereby amends Chapter 66, "Waivers or Variances from Administrative Rules by the Elevator Safety Board," Chapter 67, "Elevator Safety Board Petitions for Rule Making,"

Chapter 68, "Declaratory Orders by the Elevator Safety Board," Chapter 69, "Contested Cases Before the Elevator Safety Board," Chapter 70, "Public Records and Fair Information Practices of the Elevator Safety Board," Chapter 71, "Administration of the Conveyance Safety Program," Chapter 72, "Conveyances Installed On or After January 1, 1975," and Chapter 73, "Conveyances Installed Prior to January 1, 1975," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89A.

Purpose and Summary

These amendments make editorial and technical changes; rescind an obsolete exception for platform guards; set forth the function of electrical protective devices that are currently required; require that certain existing control panels be locked; update obsolete language; replace the rule concerning accident and injury reporting with a clearer rule on the same topic; create two narrow exemptions from the existing requirements for older elevators; and codify the current practice concerning the presence of a mechanic during an escalator inspection.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3727C**. Comments and questions relating to conduit and lighting in hoistways were received from two members of the elevator industry. As a result, the proposed amendments in Items 8, 11, and 16 relating to conduit and lighting in hoistways were not adopted pending further study by the Board.

In Item 12, the language in new paragraph 73.1(3)"h" was changed to clarify that certain control panels shall be locked except when they are being serviced, rather than when the control panels are not in use. Other changes from the Notice include technical amendments that were added as Items 5 and 9.

Adoption of Rule Making

This rule making was adopted by the Board on May 30, 2018.

Fiscal Impact

The requirement that certain existing control panels be locked represents a nominal expense.

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 875—Chapter 66.

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 August 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 875—66.5(17A,89A), introductory paragraph, as follows:

875—66.5(17A,89A) Content of petition. The required form for a petition for waiver or variance is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. A petition for waiver shall include the following information where applicable and known to the petitioner:

ITEM 2. Amend rule 875—67.1(17A,89A), introductory paragraph, as follows:

875—67.1(17A,89A) Petitions for rule making. Any person or agency may file a petition for rule making with the board requesting the adoption, amendment or repeal of a rule. The required form for a petition for rule making is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. The petition shall be filed at the location specified in rule 875—65.5(89A). A petition is deemed filed when it is received by the board office. The board office shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be in writing and provide the following information where applicable and known to the petitioner:

ITEM 3. Amend subrule 68.1(1), introductory paragraph, as follows:

68.1(1) The required form for a petition for declaratory order is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. The petition must be in writing and provide the following information where applicable and known to the petitioner:

ITEM 4. Amend subrule 69.1(1), introductory paragraph, as follows:

69.1(1) A petition for reconsideration shall be in writing and must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. A petition for reconsideration shall specify:

ITEM 5. Amend subrule 69.2(5) as follows:

69.2(5) At a minimum, an appeal shall include a short and concise statement of the basis for the appeal. The required form for an appeal to the board is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov.

ITEM 6. Amend subrule 70.3(1) as follows:

70.3(1) ~~*Location of record*~~ *Address*. ~~A request for access to a record should be directed to the board at the~~ The board's mailing address is Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The board's staff is located at 150 Des Moines Street, Des Moines, Iowa.

ITEM 7. Adopt the following **new** subrule 71.11(10):

71.11(10) *Escalator inspections.* The owner shall arrange for an escalator mechanic to be on site to assist with the inspection. The inspector shall work with the owner to arrange an inspection time.

ITEM 8. Rescind rule 875—71.19(89A) and adopt the following **new** rule in lieu thereof:

875—71.19(89A) Accidents and injuries.

71.19(1) This rule applies to a conveyance in the event one of the following occurs:

a. A personal injury accident that requires the service of a physician;

b. A personal injury accident that causes disability exceeding one day; or

c. Damage that will require more than one hour of mechanic's time (excluding travel) to repair.

71.19(2) The owner shall promptly notify the commissioner if one of the events listed in subrule 71.19(1) occurs. Notification shall be in writing and shall include the state identification number, owner, and description of accident.

71.19(3) The removal of any part of the damaged conveyance or operating mechanism from the premises is forbidden until permission is granted by the commissioner.

71.19(4) When an accident or injury involves the failure or destruction of any part of the conveyance or its operating mechanism, the use of the conveyance is forbidden until it has been inspected and approved by the commissioner.

ITEM 9. Amend paragraph **72.1(11)"f"** as follows:

f. ANSI/NFPA 70 shall mean ANSI/NFPA 70 ~~(2016)~~ (2017).

ITEM 10. Amend subrule 72.13(4) as follows:

72.13(4) *Pit excavation exemption.* ~~The~~ For elevators altered before August 1, 2018, the full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

ITEM 11. Amend paragraph **72.13(5)"c"** as follows:

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of ~~rule 875—72.13(89A)~~ subrule 72.13(5), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

ITEM 12. Adopt the following **new** paragraphs **73.1(3)"g"** to **"i"**:

g. Electrical protective devices required by A17.3, requirement 3.10.4, shall cause the electric power to be removed from the elevator driving-machine motor and brake.

h. Control panels that are designed with a door or cover and lock shall be locked when service is not being performed if equipment unrelated to the elevator is in the machine room. Group 1 security as set forth in A17.1, Section 8.1, shall be utilized.

i. A car top emergency exit pursuant to A17.3(2011), requirement 3.4.4.1(a), shall not be required for a hydraulic elevator if the elevator has manual lowering and it is not equipped with a plunger gripper or safety as described in ASME A17.1(2013), requirement 8.6.5.8.

ITEM 13. Amend subrule 73.1(4) as follows:

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, concerning car top lighting and car top electrical outlets, is adopted by reference with an effective date of May 1, 2020. However, if a car top already has a single outlet, installation of a duplex outlet will not be required.

ITEM 14. Amend subrule 73.8(1) as follows:

73.8(1) *General.* Except as set forth in this rule, all maintenance, repairs and alterations shall comply with the edition of ASME A17.1, Part 8, currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

ITEM 15. Amend paragraph **73.8(5)"c"** as follows:

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of ~~rule 875—73.8(89A)~~ subrule 73.8(5), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

ITEM 16. Amend subrule 73.14(6) as follows:

73.14(6) All safeties operated by a speed governor shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding 150 FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed. The switches required by this subrule shall disconnect power to the elevator driving-machine motor and brake.

[Filed 5/30/18, effective 8/1/18]
[Published 6/20/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3857C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to imitation controlled substances

The Board of Pharmacy hereby amends Chapter 1, "Purpose and Organization," Chapter 3, "Pharmacy Technicians," Chapter 4, "Pharmacist-Interns," Chapter 5, "Pharmacy Support Persons," Chapter 10, "Controlled Substances," Chapter 17, "Wholesale Drug Licenses," Chapter 19, "Nonresident Pharmacy Practice," and Chapter 41, "Outsourcing Facilities," 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, 2017 Iowa Acts, chapter 145, section 23.

Purpose and Summary

These amendments remove all references to Iowa Code chapter 124A, which was repealed by the 87th General Assembly in 2017 Iowa Acts, chapter 145, section 23.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3506C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—1.2(17A,147,272C) as follows:

657—1.2(17A,147,272C) Description and organization of board. The board is comprised of five pharmacist members and two representatives of the general public, all appointed by the governor. An administrative staff headed by a board-appointed executive director assists board members.

The board's authority for regulating the practice of pharmacy and the legal distribution and dispensing of prescription drugs and devices and of precursor substances in the state of Iowa is found in Iowa Code chapters 124, ~~124A,~~ 124B, 126, 147, 155A, 205, and 272C.

ITEM 2. Amend rule 657—3.29(155A) as follows:

657—3.29(155A) Denial of registration. The executive director or designee may deny an application for registration as a certified pharmacy technician or pharmacy technician trainee for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a certified pharmacy technician or pharmacy technician trainee is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

ITEM 3. Amend subrule 3.30(1) as follows:

3.30(1) *Violations.* The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A, or 205 or any rule of the board.

ITEM 4. Amend rule 657—4.10(155A) as follows:

657—4.10(155A) Denial of pharmacist-intern registration. The board may deny an application for registration as a pharmacist-intern for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A or 205, or any rule of the board.

ITEM 5. Amend subrule 4.11(1) as follows:

4.11(1) *Grounds for discipline.* The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A, or 205, or any rule of the board.

ITEM 6. Amend rule 657—5.24(155A) as follows:

657—5.24(155A) Denial of registration. The board may deny an application for registration as a pharmacy support person for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A, or 205 or any rule of the board.

ITEM 7. Amend subrule 5.26(1) as follows:

5.26(1) *Violations*. The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 147, 155A, or 205 or any rule of the board.

ITEM 8. Amend rule 657—10.44(124) as follows:

657—10.44(124) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on a registration for any of the following:

1. to 4. No change.

5. Any violation of Iowa Code ~~chapters~~ chapter 124, ~~124A,~~ 124B, 126, 155A, or 205, or any rule of the board, including the disciplinary grounds set forth in 657—Chapter 36.

ITEM 9. Amend rule 657—17.18(155A) as follows:

657—17.18(155A) Discipline. Pursuant to 657—Chapters 35 and 36, the board may deny, suspend, or revoke a wholesale drug license for any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 155A, or 205 or a rule of the board promulgated thereunder.

ITEM 10. Amend rule 657—19.11(155A) as follows:

657—19.11(155A) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on a nonresident pharmacy license or pharmacist in charge registration for any of the following:

1. to 4. No change.

5. Any violation of Iowa Code chapter 124, ~~124A,~~ 124B, 126, 155A, or 205 or any rule of the board.

ITEM 11. Amend rule 657—41.6(155A) as follows:

657—41.6(155A) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on an outsourcing facility license for any of the following:

1. to 4. No change.

5. Any violation of Iowa Code chapter 155A, 124, ~~124A,~~ 124B, 126, or 205 or any rule of the board, including the disciplinary grounds set forth in 657—Chapter 36.

[Filed 5/29/18, effective 7/25/18]
[Published 6/20/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3858C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to practice standards

The Board of Pharmacy hereby amends Chapter 4, "Pharmacist-Interns," Chapter 8, "Universal Practice Standards," Chapter 13, "Telepharmacy Practice," Chapter 18, "Centralized Prescription Filling and Processing," and Chapter 19, "Nonresident Pharmacy Practice," and adopts new Chapter 39, "Expanded Practice Standards," 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 sections 124.101, 124.301, 124.306, 124.308, 126.10, 126.11, 126.16, 135C.33, 147.7, 147.55, 147.72, 147.74, 147.76, 147A.18, 155A.2 to 155A.4, 155A.6, 155A.10, 155A.12 to 155A.15, 155A.19, 155A.20, 155A.27 to 155A.29, 155A.32, 155A.33 and 155A.44.

Purpose and Summary

Pursuant to Iowa Code section 17A.7(2), the Board engaged in a complete review of all administrative rules. These amendments create a new chapter into which existing rules are moved which relate to some areas of pharmacy practice that are not required of all pharmacies, such as provision of immunizations or participation in collaborative practice agreements, but for which the Board has established minimum practice standards. The purpose of moving these rules to a separate chapter is to narrow the scope of Chapter 8 to those minimum standards that are required of every pharmacy licensed in Iowa.

These amendments clarify rules where needed, reorganize rules where appropriate, fix grammatical errors where appropriate, remove a pharmacy's requirement to maintain a refrigerator when the pharmacy does not handle refrigerated items, incorporate language to implement two pieces of legislation from the 2017 Legislative Session (regarding electronic prescriptions and biological products), increase to quarterly the frequency of pharmacy review of its continuous quality improvement (CQI) program data, update licensure renewal language to be consistent with other Board action, and generalize language for collaborative practice agreements to allow for agreements with other prescribing practitioners as allowed by the prescribing practitioner's professional licensing authority.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3509C**.

The Board received multiple comments regarding the amendment to rule 657—8.11(147,155A) related to unethical conduct or practice. The amendment consolidates prohibited acts to be dictated by federal law and cites specific federal laws that apply to pharmacies. Comments expressed concern that specific actions previously prohibited by rule 657—8.11(147,155A) would now be allowed. The Board determined that its role is not to dictate business practices and that pharmacies are obligated to follow federal law, enforced by Centers for Medicare and Medicaid Services and the U.S. Department of Health and Human Services, Office of Inspector General, which identifies specific prohibited business practices.

The Board received multiple comments which suggested alternate language for various amendments. After consideration of all comments, the Board adopted some of the suggestions, as detailed below. The Board also received multiple comments related to collaborative practice agreements with suggested

changes to the current rules. The Board determined that no significant changes were needed in these rules at this time.

The Board received numerous comments from the Iowa Osteopathic Medical Association (IOMA) regarding several of the proposed amendments. IOMA suggested changing the definition of "confidential information" to that of the definition of "protected information" of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The Board determined that pharmacies are obligated to comply with HIPAA and that the extensive definition does not need to be duplicated in Board rules. IOMA suggested a clarification to pharmacist-intern supervision, but the suggested supervision is already required in pharmacist-intern rules and does not need to be duplicated. IOMA suggested an added requirement to pharmacy personnel identification to include a three-digit unique ID number, which the Board determined is not necessary. IOMA suggested alternate language related to the recording of refrigerator temperatures and to product recalls, which the Board declined to accept. IOMA requested a definition for the term "professional pharmacy staff," but a definition is provided in amended rule 657—8.2(155A). The Board did consider the question posed relating to issuing a prescription based on a telephonic consultation and preexisting patient-prescriber relationship and made a change to that rule as described below. IOMA suggested certain types of ownership change of pharmacies would be of interest to the Board, with which the Board agreed and made a change described below. IOMA suggested requiring the notification to a pharmacist in charge of a closing pharmacy to be "in writing," which the Board declined to accept. Finally, IOMA expressed opposition to the activities identified in rules for pharmaceutical care, vaccine administration by pharmacists, collaborative practice agreements, and pharmacy pilot or demonstration research projects, which are simply being moved to new Chapter 39. The rules cited are not newly proposed rules. The activities identified in the rules are already authorized in the Iowa Code or Iowa administrative rules.

The Board changed five amendments based on comments received. Subrule 8.4(2) was amended to clarify that pharmacy personnel registration is to be readily retrievable upon request. Subrule 8.4(5) was amended to require that pharmacy personnel wear identification, which is not specifically required to be a badge. Subrule 8.7(3) relating to storage temperatures was amended to specifically refer to storage conditions defined by United States Pharmacopeia. Subrule 8.19(5) was amended to remove language that may conflict with legitimate patient-practitioner interactions via telemedicine. Subrule 8.35(6) relating to changes in pharmacy licensure, specifically ownership, was amended to clarify that a change of owner or a change that affects the majority ownership interest of the owner constitutes a change of ownership for the purpose of the rule.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. These amendments make no substantive changes to current practice standards; these amendments reorganize and clarify standards to make it easier to locate and understand applicable standards.

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **4.6(2)"d"** as follows:

d. Administration of vaccines pursuant to rule ~~657—8.33(155A)~~ 657—39.10(155A).

ITEM 2. Amend rule 657—8.1(155A) as follows:

657—8.1(155A) Purpose and scope. The purpose of this chapter is to establish the minimum standards of pharmacy practice for the activities identified in this chapter. The requirements of these rules shall apply to all Iowa-licensed pharmacists, other registered pharmacy personnel, and ~~to~~ all pharmacies, including owners, providing the services addressed in this chapter to patients in Iowa ~~and~~. These rules are in addition to rules of the board relating to specific types of pharmacy licenses issued by the board unless otherwise indicated by rule.

ITEM 3. Rescind rule 657—8.2(155A) and adopt the following **new** rule in lieu thereof:

657—8.2(155A) Definitions. For the purpose of this chapter, the following definitions shall apply:

"Board" means the Iowa board of pharmacy.

"Confidential information" means information accessed or maintained by the pharmacy in the patient's or the pharmacy's records which contains personally identifiable information that could be used to identify the patient. "Confidential information" includes but is not limited to patient name, address, telephone number, and social security number; prescriber name and address; and prescription and drug or device information such as therapeutic effect, diagnosis, allergies, disease state, pharmaceutical services rendered, medical information, and drug interactions.

"DEA" means the United States Department of Justice, Drug Enforcement Administration.

"Pharmacy support person" or *"PSP"* means a person, other than a member of the professional pharmacy staff, registered with the board who may perform nontechnical duties assigned by a supervising pharmacist under the pharmacist's responsibility and supervision.

"Professional pharmacy staff" shall mean the professional employees of the pharmacy, including pharmacists, pharmacy technicians, and pharmacist-interns.

This rule is intended to implement Iowa Code chapter 155A.

ITEM 4. Amend rule 657—8.3(155A) as follows:

657—8.3(155A) Responsible parties.

8.3(1) No change.

8.3(2) *Pharmacy.* Each pharmacy, by and through its owner or license holder, shall work cooperatively with the pharmacist in charge and with all staff pharmacists to ensure the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy. The pharmacy, by and through its owner or license holder, shall be responsible for employing a professionally competent, legally qualified pharmacist in charge. The pharmacy, by and through its owner or license holder, may be held responsible for unethical conduct or practices of any of the pharmacy staff.

8.3(3) *Pharmacy and pharmacist in charge.* The pharmacist in charge and the pharmacy, by and through its owner or license holder, shall share responsibility for, at a minimum, the following:

a. to *c.* No change.

d. Ensuring that the license, registration, or certification of each professional pharmacy staff member and the registration of each pharmacy support person are maintained in current and active status.

8.3(4) *Pharmacist in charge and staff pharmacists.* The pharmacist in charge and staff pharmacists shall share responsibility for, at a minimum, the following:

a. No change.

b. Ensuring that a pharmacist or pharmacist-intern provides patient counseling as specified in rule 657—6.14(155A).

c. to *j.* No change.

8.3(5) and **8.3(6)** No change.

~~**8.3(7)** *Pharmacist-documented verification.* The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.~~

ITEM 5. Amend rule 657—8.4(155A) as follows:

657—8.4(155A) Pharmacist identification and staff logs.

8.4(1) *Display of pharmacist license.* During any period ~~the~~ a pharmacist is working in a pharmacy, each pharmacist shall display, in a position visible to the public, an original license to practice pharmacy in Iowa. A current license renewal certificate, which may be a photocopy of an original renewal certificate, shall be displayed with the original license.

8.4(2) *Registration maintained of pharmacy personnel.* Each pharmacist-intern, pharmacy technician, and pharmacy support person shall maintain current registration with the board. The registration certificate or a copy of the registration certificate shall be readily retrievable upon request of the board or its authorized agent.

~~**8.4(2)**~~ **8.4(3)** *Identification codes.* A permanent log of the initials or identification ~~codes~~ code identifying by name each ~~dispensing~~ pharmacist, pharmacist-intern, pharmacy technician, and pharmacy support person shall be maintained for a minimum of two years and shall be available for inspection and copying by the board or its representative. The initials or identification code shall be unique to the individual to ensure that each pharmacist, pharmacist-intern, pharmacy technician, and pharmacy support person can be identified.

~~**8.4(3)**~~ **8.4(4)** *Temporary or intermittent pharmacy staff.* The pharmacy shall maintain a log of all pharmacists, pharmacist-interns, pharmacy technicians, and pharmacy support persons who have worked at that pharmacy and who are not regularly staffed at that pharmacy. Such log shall include the dates and shifts worked by each pharmacist, pharmacist-intern, pharmacy technician, and pharmacy support person and shall be available for inspection and copying by the board or its representative for a minimum of two years following the date of the entry.

~~**8.4(4)**~~ **8.4(5)** *Identification ~~badge~~.* ~~A pharmacist~~ While on duty, pharmacy personnel shall wear ~~a~~ visible identification ~~badge while on duty~~ that clearly identifies the person ~~as a pharmacist~~ by licensed or registered title and includes at least ~~the pharmacist's~~ the person's first name.

ITEM 6. Amend rule 657—8.5(155A) as follows:

657—8.5(155A) Environment and equipment requirements. There shall be adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy pursuant to rule 657—8.3(155A). Space and equipment in an amount and type to provide secure, environmentally controlled storage of drugs shall be available.

8.5(1) *Refrigeration.* The pharmacy shall maintain one or more refrigeration units, unless the pharmacy does not stock refrigerated items. The pharmacy shall document verification that the

temperature of the refrigerator ~~shall be~~ is maintained within a range compatible with the proper storage of drugs requiring refrigeration~~, and a thermometer shall be maintained in the refrigerator to verify the temperature~~. If the temperature is manually or visually verified, a record of minimum daily verification shall be maintained.

8.5(2) No change.

8.5(3) *Secure barrier.* A pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A). To ensure that secure closure, the pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. ~~The plans and specifications of the barrier shall be submitted to the board for approval at least 30 days prior to the start of construction. The pharmacy may be subject to inspection as provided in subrule 8.5(4).~~

8.5(4) to **8.5(8)** No change.

8.5(9) *Authorized collection program.* A pharmacy that is registered with the ~~United States Department of Justice, Drug Enforcement Administration,~~ DEA to administer an authorized collection program shall provide adequate space, equipment, and supplies for such collection program pursuant to 657—Chapter 10 and federal regulations for authorized collection programs, which can be found at http://deadiversion.usdoj.gov/drug_disposal/.

8.5(10) *Health of personnel.* The pharmacist in charge or supervising pharmacist shall ensure that pharmacy personnel experiencing any health condition that may have an adverse effect on drug products or may pose a health or safety risk to others be prohibited from working in the pharmacy until such health condition is sufficiently resolved. All personnel who normally assist the pharmacist shall report to the pharmacist any health conditions that may have an adverse effect on drug products or may pose a health or safety risk to others.

ITEM 7. Rescind and reserve rule **657—8.6(155A)**.

ITEM 8. Amend rule 657—8.7(155A) as follows:

657—8.7(155A) Procurement, storage, and recall of drugs and devices.

8.7(1) *Source.* Procurement of prescription drugs and devices shall be from ~~a drug wholesaler licensed by the board to distribute to Iowa pharmacies~~ an Iowa-licensed distributor or, on a limited basis, from another licensed pharmacy or licensed practitioner located in the United States.

~~**8.7(2)** *Sufficient stock.* A pharmacy shall maintain sufficient stock of drugs and devices to fulfill the foreseeable needs of the patients served by the pharmacy.~~

~~**8.7(3)**~~ **8.7(2)** *Manner of storage.* Drugs and devices shall be stored in a manner to protect their identity and integrity.

~~**8.7(4)**~~ **8.7(3)** *Storage temperatures.* All drugs and devices shall be stored at the proper temperature~~, as defined by the following terms:~~ as provided in manufacturer labeling. In the absence of a specific temperature range, the pharmacy shall defer to storage conditions identified in United States Pharmacopeia chapter 659.

~~*a. "Controlled room temperature"* means temperature maintained thermostatically between 15 degrees and 30 degrees Celsius (59 degrees and 86 degrees Fahrenheit);~~

~~*b. "Cool"* means temperature between 8 degrees and 15 degrees Celsius (46 degrees and 59 degrees Fahrenheit). Drugs and devices may be stored in a refrigerator unless otherwise specified on the labeling;~~

~~*c. "Refrigerate"* means temperature maintained thermostatically between 2 degrees and 8 degrees Celsius (36 degrees and 46 degrees Fahrenheit); and~~

~~*d. "Freeze"* means temperature maintained thermostatically between -20 degrees and -10 degrees Celsius (-4 degrees and 14 degrees Fahrenheit).~~

~~8.7(5)~~ 8.7(4) *Product recall.* There shall be a system for removing from use, including unit dose, any drugs and devices subjected to a product recall.

8.7(5) *Outdated drugs or devices.* Any drug or device bearing an expiration date shall not be dispensed for use beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined until such drugs or devices are properly disposed of.

8.7(6) *Records.* All pharmacies shall maintain supplier invoices of prescription drugs and controlled substances upon which the actual date of receipt of the drugs by the pharmacist or other responsible individual is clearly recorded. All pharmacies shall maintain supplier credit memos. Pharmacy records of invoices and credit memos shall be maintained for at least two years from the date of the record. If the original supplier invoice or credit memo is received electronically, a hard-copy record is not required.

ITEM 9. Rescind and reserve rule **657—8.8(124,155A)**.

ITEM 10. Amend rule 657—8.9(124,155A) as follows:

657—8.9(124,155A) Records storage. Every ~~inventory or other~~ record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such ~~inventory or~~ record or the date of last activity on the record unless a longer retention period is specified for the particular record ~~or inventory~~. ~~Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department. The following records shall be maintained for at least two years.~~

8.9(1) ~~*Drug supplier invoices*~~ *Records less than 12 months old.* ~~All pharmacies shall maintain supplier invoices of prescription drugs and controlled substances upon which the actual date of receipt of the controlled substances by the pharmacist or other responsible individual is clearly recorded.~~ Records shall be maintained within the licensed pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the licensed pharmacy department, including at a remote location, if the pharmacy has retained electronic copies of the records in the pharmacy that are immediately available and if the original records are available within 48 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

8.9(2) ~~*Drug supplier credits*~~ *Records more than 12 months old.* ~~All pharmacies shall maintain supplier credit memos for controlled substances and prescription drugs.~~ Records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department, including at a remote location, if the records are retrievable within 48 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 11. Amend rule 657—8.11(147,155A) as follows:

657—8.11(147,155A) Unethical conduct or practice. The provisions of this rule apply to licensed pharmacies, licensed pharmacists, registered pharmacy technicians, registered pharmacy support persons, and registered pharmacist-interns.

8.11(1) *Misrepresentative deeds.* A pharmacy, pharmacist, technician, support person, or pharmacist-intern shall not make any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

8.11(2) ~~*Undue influence*~~ *Unethical conduct.*

a. ~~A pharmacist shall not accept professional employment or share or receive compensation in any form arising out of, or incidental to, the pharmacist's professional activities from a prescriber of prescription drugs or any other person or corporation in which one or more such prescribers have a proprietary or beneficial interest sufficient to permit them to directly or indirectly exercise supervision~~

~~or control over the pharmacist in the pharmacist's professional responsibilities and duties or over the pharmacy wherein the pharmacist practices.~~ A pharmacy, pharmacist, pharmacist-intern, technician, or support person shall not participate in any of the following types of unethical conduct:

(1) Any activity that negates a patient's freedom of choice of pharmacy services.

(2) Providing prescription blanks or forms bearing the pharmacy's name or other means of identification to any person authorized to prescribe, except that a hospital may make prescription blanks or forms bearing the hospital pharmacy's name or other means of identification available to hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use during practice at or in the hospital.

(3) Any financial arrangement or transaction that would violate federal healthcare fraud, waste, and abuse laws, including but not limited to the Stark Law, the False Claims Act, and the Anti-Kickback Statute.

b. ~~A prescriber may employ a pharmacist to provide nondispensing, drug information, or other cognitive services.~~ A purchasing pharmacist or pharmacy shall not engage in any activity or include in any agreement with a selling pharmacist or pharmacy any provision that would prevent or prohibit the prior notifications required in subrule 8.35(7).

~~**8.11(3)** *Lease agreements.* A pharmacist shall not lease space for a pharmacy under any of the following conditions:~~

~~*a.* From a prescriber of prescription drugs or a group, corporation, association, or organization of such prescribers on a percentage of income basis;~~

~~*b.* From a group, corporation, association, or organization in which prescribers have majority control or have directly or indirectly a majority beneficial or proprietary interest on a percentage of income basis; or~~

~~*c.* If the rent is not reasonable according to commonly accepted standards of the community in which the pharmacy will be located.~~

~~**8.11(4)** *Nonconformance with law.* A pharmacist, technician, support person, or pharmacist-intern shall not knowingly serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.~~

~~**8.11(5)** *Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms.* A pharmacist or pharmacy shall not enter into any agreement which negates a patient's freedom of choice of pharmacy services. A purchasing pharmacist or pharmacy shall not engage in any activity or include in any agreement with a selling pharmacist or pharmacy any provision that would prevent or prohibit the prior notifications required in subrule 8.35(7). A pharmacist or pharmacy shall not participate in prohibited agreements with any person in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy. "Person" includes an individual, corporation, partnership, association, firm, or other entity. "Prohibited agreements" includes an agreement or arrangement that provides premiums, "kickbacks," fee-splitting, or special charges as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" includes, but is not limited to, the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of a facility or practitioner at no charge or billed below reasonable market rate. A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification, except that a hospital may make available to hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use during practice at or in the hospital generic prescription blanks or forms bearing the name, address, or telephone number of the hospital pharmacy.~~

~~**8.11(6)**~~ **8.11(3)** *Discrimination.* ~~It is unethical to unlawfully~~ A pharmacy, pharmacist, pharmacist-intern, technician, or pharmacy support person shall not discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

~~8.11(7)~~ ~~*Claims of professional superiority.* A pharmacist shall not make a claim, assertion, or inference of professional superiority in the practice of pharmacy which cannot be substantiated, or claim an unusual, unsubstantiated capacity to supply a drug or professional service to the community.~~

~~8.11(8)~~ **8.11(4)** *Unprofessional conduct or behavior.* A pharmacy, pharmacist, pharmacist-intern, technician, or pharmacy support person shall not ~~exhibit~~ engage in unprofessional behavior in connection with the practice of pharmacy ~~or refuse to provide reasonable information or answer reasonable questions for the benefit of the patient~~. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, ~~and~~ theft, and the refusal to provide reasonable information or answer reasonable questions for the benefit of the patient.

ITEM 12. Amend rule 657—8.12(126,147) as follows:

657—8.12(126,147) Advertising. Prescription drug ~~price and nonprice~~ information, including price, may be provided to the public by a pharmacy so long as the information is not false or misleading and is not in violation of any federal or state laws applicable to the advertisement of such articles generally and if all of the following conditions are met:

1. All charges for services to the consumer ~~must~~ shall be stated.
2. The effective dates for the prices listed shall be stated.
3. No reference shall be made to controlled substances listed in Schedules II through V of the latest revision of the Iowa uniform controlled substances Act and the rules of the ~~Iowa~~ board ~~of pharmacy~~.

ITEM 13. Amend rule 657—8.13(135C,155A) as follows:

657—8.13(135C,155A) Personnel histories. Pursuant to the requirements of Iowa Code section 135C.33, the provisions of this rule shall apply to any pharmacy employing any person to provide patient care services in a patient's home. For the purposes of this rule, "employed by the pharmacy" shall include any individual who is paid to provide treatment or services to any patient in the patient's home, whether the individual is paid by the pharmacy or by any other entity such as a corporation, a temporary staffing agency, or an independent contractor. Specifically excluded from the requirements of this rule are individuals such as delivery persons or couriers who do not enter the patient's home for the purpose of instructing the patient or the patient's caregiver in the use or maintenance of the equipment, device, or drug being delivered, or who do not enter the patient's home for the purpose of setting up or servicing the equipment, device, or drug used to treat the patient in the patient's home.

8.13(1) *Applicant acknowledgment.* The pharmacy shall ask the following question of each person seeking employment in a position that will provide in-home services: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" The applicant shall also be informed that a criminal history and child and dependent adult abuse record ~~check~~ checks will be conducted. The applicant shall indicate, by signed acknowledgment, that the applicant has been informed that such record checks will be conducted.

8.13(2) *Criminal history check.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall ~~submit to~~ request that the department of public safety ~~a form specified by the department of public safety and receive the results of~~ perform a criminal history check.

8.13(3) *Abuse history checks.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall ~~submit to~~ request that the department of human services ~~a form specified by the department of human services and receive the results of~~ perform a child and dependent adult abuse record check. ~~The pharmacy may submit to the department of human services a form specified by the department of human services to request a child abuse history check.~~

a. and *b.* No change.

ITEM 14. Amend rule 657—8.14(155A) as follows:

657—8.14(155A) Training and utilization of registered pharmacy ~~technicians or pharmacy support persons~~ staff. Pursuant to rule 657—8.3(155A), all Iowa-licensed pharmacies utilizing

pharmacist-interns, pharmacy technicians, or pharmacy support persons shall have written policies and procedures for the training and utilization of pharmacist-interns, pharmacy technicians, and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. ~~Pharmacy technician and pharmacy support person training~~ Training shall be documented and maintained by the pharmacy for ~~the duration of employment~~ at least two years from the last date of employment or internship and shall be available for inspection by the board or its authorized agent. ~~Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.~~

ITEM 15. Amend subparagraph **8.15(1)"e"(3)** as follows:

(3) The pharmacy shall ensure the security of confidential information ~~as defined in subrule 8.16(1)~~.

ITEM 16. Amend subrule 8.15(2) as follows:

8.15(2) *Policies and procedures required.* Pursuant to rule 657—8.3(155A), every pharmacy shipping or otherwise delivering prescription drugs or devices to Iowa patients shall have policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements as defined by subrule ~~8.7(4)~~ 8.7(3).

ITEM 17. Amend rule 657—8.16(124,155A) as follows:

657—8.16(124,155A) Confidential information.

~~**8.16(1)** *Definition.* "Confidential information" means information accessed or maintained by the pharmacy in the patient's records which contains personally identifiable information that could be used to identify the patient. This includes but is not limited to patient name, address, telephone number, and social security number; prescriber name and address; and prescription and drug or device information such as therapeutic effect, diagnosis, allergies, disease state, pharmaceutical services rendered, medical information, and drug interactions, regardless of whether such information is communicated to or from the patient, is in the form of paper, is preserved on microfilm, or is stored on electronic media.~~

~~**8.16(2)**~~ **8.16(1)** *Release of confidential information.* Confidential information ~~in the patient record~~ may be released only as follows:

a. to *e.* No change.

~~**8.16(3)**~~ **8.16(2)** *Exceptions.* Nothing in this rule shall prohibit ~~pharmacists~~ a pharmacist from releasing confidential patient information as follows:

a. Transferring a prescription to another pharmacy upon the request of the patient or the patient's authorized representative or pursuant to subrule 8.35(7) when the pharmacy is discontinuing operations.

b. Providing the patient with a copy of a nonrefillable prescription ~~to the person for whom the prescription was issued which~~ that is clearly marked as a copy and not to be filled.

c. Providing drug therapy information to ~~physicians or other~~ authorized ~~prescribers~~ practitioners for their patients.

d. Disclosing information necessary for the processing of third-party payer claims ~~for payment of health care operations or services~~ on behalf of the patient.

~~*e.* Transferring, subject to the provisions of subrule 8.35(7), prescription and patient records of a pharmacy that discontinues operation as a pharmacy to another licensed pharmacy that is held to the same standards of confidentiality and that agrees to act as custodian of the transferred records.~~

~~**8.16(4)** *System security and safeguards.* To maintain the integrity and confidentiality of patient records and prescription drug orders, any system or computer utilized shall have adequate security including system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records and prescription drug orders.~~

~~**8.16(5)**~~ **8.16(3)** *Record disposal.* Disposal of any materials containing or including patient-specific or confidential information shall be conducted in a manner to preserve patient confidentiality.

ITEM 18. Amend rule 657—8.19(124,126,155A) as follows:

657—8.19(124,126,155A) Manner of issuance of a prescription drug or medication order. A prescription drug order or medication order may be transmitted from a prescriber or a prescriber's

agent to a pharmacy in written form, orally including telephone voice communication, by facsimile transmission as provided in rule 657—21.9(124,155A), or by electronic transmission in accordance with applicable federal and state laws, rules, and regulations. Any prescription drug order or medication order provided to a patient in written or printed form shall include the original, handwritten signature of the prescriber except as provided in rule 657—21.7(124,155A).

8.19(1) *Requirements for a prescription.* A valid prescription drug order shall be based on a valid patient-prescriber relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors and in subrule 8.19(8) for opioid antagonists.

a. Written, electronic, or facsimile prescription. In addition to the electronic prescription application and pharmacy prescription application requirements of this rule, a written, electronic, or facsimile prescription shall include:

(1) No change.

(2) The name and address of the patient except as provided in subrule 8.19(7) for epinephrine auto-injectors and in subrule 8.19(8) for opioid antagonists.

(3) to (5) No change.

b. and *c.* No change.

d. Electronic prescription. In addition to the requirements of paragraph 8.19(1)*"a,"* an electronically prepared prescription for a controlled or noncontrolled prescription drug or device that is electronically transmitted to a pharmacy shall include the prescriber's electronic signature, except as provided herein.

(1) to (3) No change.

(4) An electronic prescription for a noncontrolled prescription drug or device that is transmitted by an authorized agent shall not be required to contain the prescriber's electronic signature.

8.19(2) *Verification.* The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any prescription drug order or medication order consistent with federal and state laws, rules, and regulations. In exercising professional judgment, the ~~prescribing practitioner~~ prescriber and the pharmacist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries.

8.19(3) *Transmitting agent.* The ~~prescribing practitioner~~ prescriber may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally, by facsimile transmission, or by electronic transmission provided that the first and last names and title of the transmitting agent are included in the order.

a. New order. A new written or electronically prepared and transmitted prescription drug or medication order shall be manually or electronically signed by the prescriber~~.~~, except as provided in paragraph 8.19(1)*"d."* If transmitted by the prescriber's agent, the first and last names and title of the transmitting agent shall be included in the order. If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber ~~prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy~~. An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to the electronic transmission. An electronically prepared and electronically transmitted prescription that is printed following the electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

b. Refill order or renewal order. An authorization to refill a prescription drug or medication order, or to renew or continue an existing drug therapy, may be transmitted to ~~a pharmacist~~ professional pharmacy staff through oral communication, in writing, by facsimile transmission, or by electronic transmission initiated by or directed by the prescriber.

(1) and (2) No change.

8.19(4) *Receiving agent.* Regardless of the means of transmission to a pharmacy, only ~~a pharmacist, a pharmacist-intern, or a certified pharmacy technician~~ professional pharmacy staff shall be authorized to receive a new prescription drug or medication order from a ~~practitioner~~ prescriber or the ~~practitioner's~~ prescriber's agent. ~~In addition to a pharmacist, a pharmacist-intern, and a certified pharmacy technician, a~~ A technician trainee ~~or an uncertified pharmacy technician~~ may receive a refill or renewal order from

a ~~practitioner~~ prescriber or the ~~practitioner's~~ prescriber's agent only if the technician's supervising pharmacist has authorized that function.

8.19(5) *Legitimate purpose.* The ~~pharmacist~~ pharmacy and professional pharmacy staff shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate medical purpose by ~~an authorized practitioner~~ a prescriber acting in the usual course of the ~~practitioner's~~ prescriber's professional practice. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire~~, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors~~.

8.19(6) and **8.19(7)** No change.

8.19(8) *Opioid antagonist prescription issued to law enforcement, fire department, or service program.* A physician, an advanced registered nurse practitioner, or a physician assistant may issue a prescription for one or more opioid antagonists in the name of a law enforcement agency, fire department, or service program pursuant to Iowa Code section 147A.18 and rule ~~657—8.31(135,147A)~~ 657—39.7(135,147A). The prescription shall comply with all requirements of subrule 8.19(1) as applicable to the form of the prescription except that the prescription shall be issued in the name and address of the law enforcement agency, fire department, or service program in lieu of the name and address of a patient. Provisions requiring a preexisting patient-prescriber relationship shall not apply to a prescription issued pursuant to this subrule.

a. and *b.* No change.

ITEM 19. Amend rule 657—8.21(155A) as follows:

657—8.21(155A) Prospective drug use review. For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

1. to 8. No change.

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. The review and assessment of patient records shall not be delegated to ~~staff assistants~~ pharmacy technicians or pharmacy support persons but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

ITEM 20. Adopt the following **new** rule 657—8.22(155A):

657—8.22(155A) Notification of interchangeable biological product selection. Pursuant to Iowa Code section 155A.32, when a pharmacist substitutes a biological product that is an interchangeable biological product for the biological product prescribed, the pharmacist or pharmacist's designee shall, within five business days of dispensing the biological product, communicate to the prescriber the name and manufacturer of the biological product dispensed unless the prescription information has been entered into an electronic record system, such as an electronic medical record, electronic prescribing system, pharmacy benefit management system, or a pharmacy record to which the prescriber has access. The manner of communication to the prescriber may be via telephone, facsimile, electronic transmission, or other prevailing means.

This rule is intended to implement Iowa Code section 155A.32.

ITEM 21. Adopt the following **new** rule 657—8.23(124,155A):

657—8.23(124,155A) Individuals qualified to administer. Any person specifically authorized under pertinent sections of the Iowa Code to administer prescription drugs shall construe nothing in this rule to limit that authority. The board designates the following as qualified individuals to whom a prescriber may delegate the administration of prescription drugs.

1. Persons who have successfully completed a medication administration course.

2. Licensed pharmacists.

This rule is intended to implement Iowa Code section 155A.44.

ITEM 22. Adopt the following **new** rule 657—8.24(155A):

657—8.24(155A) Documented verification. The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. In an approved tech-check-tech program, the checking technician shall provide, document, and retain a record of the final verification for the accuracy of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

ITEM 23. Amend subrule 8.26(3) as follows:

8.26(3) *Policies and procedures.* Pursuant to rule 657—8.3(155A), each pharmacy shall have written policies and procedures for the operation and management of the pharmacy's CQI program. A copy of the pharmacy's CQI program description and policies and procedures shall be maintained and readily available to all pharmacy personnel. The policies and procedures shall address, at a minimum, a planned process to:

a. to *e.* No change.

f. Periodically, but at least ~~annually~~ quarterly, meet with appropriate pharmacy personnel to review findings and inform personnel of changes that have been made to pharmacy policies, procedures, systems, or processes as a result of CQI program findings.

ITEM 24. Rescind and reserve rule **657—8.31(135,147A)**.

ITEM 25. Rescind and reserve rule **657—8.32(124,155A)**.

ITEM 26. Rescind and reserve rule **657—8.33(155A)**.

ITEM 27. Rescind and reserve rule **657—8.34(155A)**.

ITEM 28. Rescind rule 657—8.35(155A) and adopt the following **new** rule in lieu thereof:

657—8.35(155A) Pharmacy license. A pharmacy license issued by the board is required for all sites where prescription drugs are offered for sale or dispensed under the supervision of a pharmacist. The current pharmacy license certificate shall be displayed in a position visible to the public. The board may issue any of the following types of pharmacy licenses: a general pharmacy license, a hospital pharmacy license, a limited use pharmacy license, or a nonresident pharmacy license. Nonresident pharmacy license applicants shall comply with board rules regarding nonresident pharmacy practice except when a waiver has been granted. Applicants for general or hospital pharmacy practice shall comply with board rules regarding general or hospital pharmacy practice except when a waiver has been granted. Any pharmacy that dispenses controlled substances to Iowa residents must also register pursuant to 657—Chapter 10.

8.35(1) *Limited use pharmacy license.* A limited use pharmacy license may be issued for nuclear pharmacy practice, correctional facility pharmacy practice, veterinary pharmacy practice, telepharmacy practice, and other limited use practice settings. Applications for a limited use pharmacy license shall be considered on a case-by-case basis.

8.35(2) *Application.* Applicants for initial licensure, license renewal, license reactivation, or license changes pursuant to subrule 8.35(6) shall complete the relevant pharmacy license application and shall include all required information and attachments. All pharmacy license applications require submission of a nonrefundable $135 license fee plus applicable penalty fees. The application shall include the signature of the pharmacy owner's authorized representative and shall require at a minimum the following:

a. Disclosure of pharmacy ownership information, including information about the pharmacy's registered agent;

b. Identification and signature of the pharmacist in charge;

c. The identification of and average number of hours worked by all pharmacists, pharmacist-interns, pharmacy technicians, and pharmacy support persons working in the pharmacy;

d. Criminal and disciplinary history information; and

e. Description of the scope of services provided by the pharmacy.

8.35(3) *License renewal.* A pharmacy license shall be renewed before January 1 of each year. An initial pharmacy license issued between November 1 and December 31 shall not require renewal until the following calendar year. The nonrefundable fee for a timely license renewal shall be $135.

a. Delinquent license grace period. A pharmacy license renewal application that is postmarked or hand-delivered to the board after January 1 but prior to February 1 following expiration shall be considered delinquent and shall require the nonrefundable payment of the renewal fee plus a penalty fee of $135. A pharmacy that submits a completed license renewal application, application fee, and penalty fee postmarked or delivered to the board office by January 31 shall not be subject to disciplinary action for continuing to operate in the month of January.

b. Delinquent license reactivation beyond grace period. If a pharmacy license is not renewed prior to the expiration of the one-month grace period identified in paragraph 8.35(3)*"a,"* the pharmacy may not operate or provide pharmacy services to patients in the state of Iowa until the license is reactivated. A pharmacy without a current license may apply for license reactivation by submitting an application for reactivation and a nonrefundable $540 reactivation fee. As part of the reactivation application, the pharmacy shall disclose the prescriptions dispensed and the services, if any, that were provided to Iowa patients while the license was delinquent. A pharmacy that continues to operate or provide pharmacy services in Iowa without a current license may be subject to disciplinary sanctions.

8.35(4) *Inspection of new pharmacy location.* A new pharmacy location in Iowa shall require an on-site inspection by an authorized agent of the board. Application for a pharmacy license and other required registrations shall be submitted to the board at least 14 days prior to the anticipated inspection. Any deficiencies identified during the inspection shall be corrected and verified by an authorized agent of the board prior to the issuance of the pharmacy license. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to the delivery of the pharmacy license and registration certificates.

8.35(5) *Failure to complete licensure.* An application for a pharmacy license, including any other required registration applications, will become null and void if the applicant fails to complete the licensure process within six months of acceptance by the board of the required applications. The licensure process shall be complete upon the pharmacy's opening for business at the licensed location following a satisfactory inspection by an agent of the board pursuant to this rule. When an applicant fails to timely complete the licensure process, fees submitted with applications will not be transferred or refunded. If the applicant intends to proceed with a pharmacy license, a new application and fee shall be required.

8.35(6) *Pharmacy license changes.* When a pharmacy changes its name, location, ownership, or pharmacist in charge, a completed pharmacy license application with a nonrefundable $135 fee shall be submitted to the board. Upon receipt of the completed application and fee, the board shall issue an updated pharmacy license certificate unless the board identifies any ground for denial of the license. Any restrictions or disciplinary history associated with the previous pharmacy shall remain unchanged. A pharmacy wishing to disassociate itself from the previously licensed pharmacy restrictions or disciplinary history may petition the board for such disassociation. The burden is on the pharmacy to demonstrate that the current pharmacy is not associated with or responsible for the pharmacy as it previously existed. The old license certificate shall be returned to the board within ten days of receiving the updated license certificate.

a. Name. A change of the name under which the pharmacy is doing business shall require submission of a pharmacy license application and appropriate fee prior to the change of name.

b. Location. A change of pharmacy location shall require submission of a pharmacy license application and appropriate fee prior to the change of location. A pharmacy undergoing a change in location is required to notify patients of the change in accordance with paragraph 8.35(7)*"d."* A change

of pharmacy location in Iowa may require an on-site inspection of the new location as provided in subrule 8.35(4).

c. Ownership. A change in ownership of a pharmacy shall require submission of a pharmacy license application and appropriate fee prior to the change in ownership. A change of ownership occurs when the owner listed on the pharmacy's most recent application changes or when there is a change affecting the majority ownership interest of the owner listed on the pharmacy's most recent pharmacy application. A pharmacy undergoing a change in ownership is required to notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7). A change of ownership effectively consists of closing a pharmacy and opening a new pharmacy.

d. Pharmacist in charge. In addition to the requirements of this paragraph, a change of pharmacist in charge for a nonresident pharmacy shall require registration of the new permanent pharmacist in charge if the pharmacist in charge is not currently registered by the board or licensed to practice pharmacy in Iowa.

(1) If a permanent pharmacist in charge has been identified by the time of the vacancy, a pharmacy license application identifying the new pharmacist in charge, along with the appropriate fee, shall be submitted to the board within ten days of the change.

(2) If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge shall be submitted to the board within ten days of the vacancy.

(3) If a permanent pharmacist in charge was not identified within ten days of the vacancy, the pharmacy shall, within 90 days of the vacancy, identify a permanent pharmacist in charge. A pharmacy license application identifying the permanent pharmacist in charge, along with appropriate fee, shall be submitted to the board within ten days of the appointment of a permanent pharmacist in charge. The pharmacy license application and the pharmacist in charge registration application, if needed, including appropriate fees, shall be received by the board within 90 days of the original vacancy of the permanent pharmacist in charge position.

8.35(7) *Closing or sale of a pharmacy.* A closing pharmacy shall ensure that all pharmacy records are transferred to another licensed pharmacy that agrees to act as custodian of the records for at least two years. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy's closing for delivery of the notifications to the pharmacist in charge, the board, the DEA, and pharmacy patients as required by this subrule. However, the provisions of this subrule regarding prior notifications to the board, the DEA, and patients shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.

a. Pharmacist in charge notification. At least 40 days prior to the effective date of the sale or closing of a pharmacy, the pharmacist in charge of the closing pharmacy shall be notified of the proposed sale or closing. Information regarding the pending sale or closure of the pharmacy may be kept confidential until public notifications, which are required 30 days prior to the pharmacy's closing, are made. The pharmacist in charge of the closing pharmacy shall provide input and direction to the pharmacy owner regarding the responsibilities of the closing pharmacy, including the notifications, deadlines, and timelines established by this subrule. The pharmacist in charge of the purchasing or receiving pharmacy shall be notified of the pending transaction at least 30 days prior to the sale or closure of the pharmacy.

b. Board and DEA notifications. At least 30 days prior to the closing of a pharmacy, a written notice shall be sent to the board. Notification to the DEA shall be pursuant to federal regulation. Notification to the board shall include:

(1) The anticipated date of closing or transfer of prescription drugs or records.

(2) The name, address, DEA registration number, Iowa pharmacy license number, and Iowa controlled substances Act (CSA) registration number of the closing pharmacy and of the pharmacy to which prescription drugs will be transferred.

(3) The name, address, DEA registration number, Iowa pharmacy license number, and CSA registration number of the location at which records will be maintained.

c. Terms of sale or purchase. If the closing is due to the sale of the pharmacy, a copy of the sale or purchase agreement, not including information regarding the monetary terms of the transaction, shall be submitted to the board upon the request of the board. The agreement shall include a written assurance from the closing pharmacy to the purchasing pharmacy that the closing pharmacy has given or will be giving notice to its patients as required by this subrule.

d. Patient notification. At least 30 days prior to closing, a closing pharmacy shall make a reasonable effort to notify all patients who had a prescription filled by the closing pharmacy within the last 18 months that the pharmacy intends to close, including the anticipated closing date.

(1) Written notification shall identify the pharmacy that will be receiving the patient's records. The notification shall advise patients that all patient records will be transferred to the identified pharmacy and that patients may contact the closing pharmacy to request the transfer of remaining refills to a pharmacy of the patient's choice. The notification shall also advise patients that after the date of closing, patients may contact the pharmacy to which the records have been transferred.

(2) Written notification shall be delivered to each patient at the patient's last address on file with the closing pharmacy by direct mail or personal delivery. A pharmacy shall not be required to provide written notice to more than one patient within the same household.

(3) Public notice shall be provided in a location and manner clearly visible to patients in the pharmacy pickup locations including drive-through prescription pickup lanes, on pharmacy or retail store entry and exit doors, and at pharmacy prescription counters.

e. Patient communication by receiving pharmacy. A pharmacy receiving the patient records of another pharmacy shall not contact the patients of the closing pharmacy until after the transfer of those patient records from the closing pharmacy to the receiving pharmacy and after the closure of the closing pharmacy.

f. Prescription drug inventory. A complete inventory of all prescription drugs being transferred shall be taken as of the close of business. The inventory shall serve as the ending inventory for the closing pharmacy as well as a record of additional or starting inventory for the pharmacy to which the drugs are transferred. A copy of the inventory shall be maintained in the records of the purchasing pharmacy for at least two years.

(1) DEA Form 222 is required for transfer of Schedule II controlled substances.

(2) The inventory of controlled substances shall be completed pursuant to the requirements in rule 657—10.19(124).

(3) The inventory of all noncontrolled prescription drugs shall include the name, strength, dosage form, and quantity, which may be estimated.

(4) Controlled substances and prescription drugs requiring destruction or other disposal shall be transferred in the same manner as all other drugs. The new owner is responsible for the disposal of these drugs.

g. Return of certificates and forms. The pharmacy license certificate and CSA registration certificate of the closing or selling pharmacy shall be returned to the board within ten days of closing or sale. The pharmacy shall be responsible for complying with federal DEA regulations for the cancellation and return of DEA forms and certificates.

h. Signs at closed pharmacy location. A location that no longer houses a licensed pharmacy shall not display any sign, placard, or other notification, visible to the public, which identifies the location as a pharmacy. A sign or other public notification that cannot feasibly be removed shall be covered so as to conceal the identification as a pharmacy. Nothing in this paragraph shall prohibit the display of a public notice to patients, as required in paragraph 8.35(7)*"d,"* for a reasonable period not to exceed six months following the pharmacy's closing.

8.35(8) *Reporting discipline and criminal convictions.* A pharmacy shall, no later than 30 days after the final action, provide written notice to the board of any discipline imposed by any licensing authority on any license or registration held by the pharmacy. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, or voluntary surrender. A pharmacy shall, no later than 30 days after a conviction, provide written notice to the board of any criminal conviction of the pharmacy or of any pharmacy owner when that conviction is related to

prescription drugs or to the operation of the pharmacy. The term criminal conviction includes instances when the judgment of conviction or sentence is deferred.

ITEM 29. Rescind and reserve rule **657—8.40(155A,84GA,ch63)**.

ITEM 30. Amend **657—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 124.101, 124.301, 124.306, 124.308, 126.10, 126.11, 126.16, 135C.33, 147.7, 147.55, 147.72, 147.74, 147.76, 155A.2 through 155A.4, 155A.6, 155A.10, 155A.12 through 155A.15, 155A.19, 155A.20, 155A.27 through 155A.29, ~~155A.32, and 155A.33~~ 155A.31 through 155A.35, and ~~2013 Iowa Acts, Senate File 353~~ 155A.41.

ITEM 31. Amend subrule 13.17(3) as follows:

13.17(3) *Location change.* A telepharmacy site that intends to move to and to provide telepharmacy services from a new location that is outside the community wherein the telepharmacy site has been located shall comply with the requirements of subrule 13.17(2) for closing a pharmacy and shall submit applications and supporting information as provided in rule 657—13.16(124,155A). A managing pharmacy that intends to move to a new location shall comply with the requirements of 657—subrules ~~8.35(5)~~ 8.35(4), 8.35(6), and 8.35(7), as appropriate.

ITEM 32. Amend rule **657—18.2(155A)**, definition of "Medication therapy management," as follows:

"Medication therapy management" means the review of drug therapy regimens of a patient by a pharmacist for the purpose of evaluating and rendering advice to a practitioner, or for the purpose of evaluating and modifying the drug regimen in accordance with a collaborative drug therapy management protocol pursuant to rule ~~657—8.34(155A)~~ 657—39.13(155A).

ITEM 33. Amend subrule 19.2(1), introductory paragraph, as follows:

19.2(1) *Inspection requirements.* In lieu of the inspection requirement identified in 657—subrule ~~8.35(5)~~ 8.35(4), a nonresident pharmacy submitting any application for licensure, except when related to a change in location, shall submit with its application and fee an inspection report that satisfies the following requirements:

ITEM 34. Amend paragraph **19.2(4)"c"** as follows:

c. Pharmacist in charge. A change in the pharmacist in charge shall require submission of a pharmacy license application and fee within ten days of the identification of a permanent pharmacist in charge pursuant to 657—subrule 8.35(6). If a temporary pharmacist in charge is identified, written notification shall be provided to the board pursuant to 657—paragraph ~~8.35(6)*"c."*~~ 8.35(6)*"d."* The temporary pharmacist in charge shall not be required to be registered pursuant to rule 657—19.3(155A).

ITEM 35. Amend paragraph **19.4(1)"c"** as follows:

c. A "limited use pharmacy" as described in 657—subrule ~~8.35(2)~~ 8.35(1) shall comply with all requirements of the limited use pharmacy practice.

ITEM 36. Adopt the following **new** 657—Chapter 39:

CHAPTER 39
EXPANDED PRACTICE STANDARDS

657—39.1(155A) Purpose and scope. The purpose of this chapter is to establish the minimum standards for the programs and activities identified in this chapter. These rules shall apply to all licensed pharmacists, other registered pharmacy personnel, and all pharmacies, including owners, engaged in the state of Iowa in the programs and activities identified in this chapter. These rules are in addition to rules of the board relating to the practice of pharmacy unless otherwise indicated by rule.

657—39.2 and **39.3** Reserved.

657—39.4(155A) Pharmaceutical care. Pharmaceutical care is a comprehensive, patient-centered, outcomes-oriented pharmacy practice in which the pharmacist accepts responsibility for assisting the prescriber and the patient in optimizing the patient's drug therapy plan and works to promote health, to prevent disease, and to optimize drug therapy. Pharmaceutical care does not include the prescribing of drugs without the consent of the prescriber.

39.4(1) *Drug therapy problems.* In providing pharmaceutical care, the pharmacist shall strive to identify, resolve, and prevent drug therapy problems.

39.4(2) *Drug therapy plan.* In providing pharmaceutical care, the pharmacist shall access and evaluate patient-specific information, identify drug therapy problems, and utilize that information in a documented plan of therapy that assists the patient or the patient's caregiver in achieving optimal drug therapy. In concert with the patient, the patient's prescribing practitioner, and the patient's other health care providers, the pharmacist shall assess, monitor, and suggest modifications of the drug therapy plan as appropriate.

657—39.5 and **39.6** Reserved.

657—39.7(135,147A) Opioid antagonist dispensing by pharmacist—standing order. An authorized pharmacist may dispense an opioid antagonist pursuant to a standing order established by the department, which standing order can be found via the board's website, or pursuant to a standing order authorized by an individual licensed health care professional in compliance with the requirements of this rule. An authorized pharmacist may only delegate the dispensing of an opioid antagonist to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist. Nothing in this rule prohibits a prescriber or facility from establishing and implementing standing orders or protocols under the authority granted to the prescriber or facility.

39.7(1) *Definitions.* For the purposes of this rule, the following definitions shall apply:

"Authorized pharmacist" means an Iowa-licensed pharmacist who has completed the training requirements of this rule. "Authorized pharmacist" also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized Iowa-licensed pharmacist.

"Department" means the Iowa department of public health.

"First responder" means an emergency medical care provider, a registered nurse staffing an authorized service program under Iowa Code section 147A.12, a physician assistant staffing an authorized service program under Iowa Code section 147A.13, a firefighter, or a peace officer as defined in Iowa Code section 801.4 who is trained and authorized to administer an opioid antagonist.

"Licensed health care professional" means a person licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 or 152E and registered with the board of nursing, or a physician assistant licensed to practice under the supervision of a physician as authorized in Iowa Code chapters 147 and 148C.

"Opioid antagonist" means the same as defined in Iowa Code section 147A.1.

"Opioid-related overdose" means the same as defined in Iowa Code section 147A.1.

"Person in a position to assist" means a family member, friend, caregiver, health care provider, employee of a substance abuse treatment facility, or other person who may be in a position to render aid to a person at risk of experiencing an opioid-related overdose.

"Recipient" means an individual at risk of an opioid-related overdose or a person in a position to assist an individual at risk of an opioid-related overdose.

"Standing order" means a preauthorized medication order with specific instructions from the licensed health care professional to dispense a medication under clearly defined circumstances.

39.7(2) *Authorized pharmacist training.* An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to opioid antagonist utilization prior to dispensing opioid antagonists pursuant to a standing order.

39.7(3) *Additional supply.* Notwithstanding a standing order to the contrary, an authorized pharmacist shall only dispense an opioid antagonist after completing an eligibility assessment and providing training and education to the recipient.

39.7(4) *Assessment.* An authorized pharmacist shall assess an individual for eligibility to receive an opioid antagonist pursuant to a standing order. In addition to the criteria identified in a standing order, an authorized pharmacist shall also take into consideration the following criteria to determine the eligibility of the recipient to receive and possess an opioid antagonist:

a. The person at risk of an opioid-related overdose for which the opioid antagonist is intended to be administered has no known sensitivity or allergy to naloxone, unless the person at risk is not known to the recipient, including but not limited to a first responder or member of law enforcement.

b. The recipient is oriented to person, place, and time and able to understand and learn the essential components of opioid-related overdose, appropriate response, and opioid antagonist administration.

39.7(5) *Recipient training and education.* Upon assessment and determination that an individual is eligible to receive and possess an opioid antagonist pursuant to a standing order, an authorized pharmacist shall, prior to dispensing an opioid antagonist pursuant to a standing order, provide training and education to the recipient including, but not limited to, the information identified in this subrule. An authorized pharmacist shall require the recipient to attest that, if the product will be accessible to any other individual for administration, the recipient will make available to such individual all received training and education materials. An authorized pharmacist may provide to the recipient written materials that include, but may not be limited to, the information identified in this subrule, but the written materials shall not be in lieu of direct pharmacist consultation with the recipient.

a. The signs and symptoms of opioid-related overdose as described in the standing order.

b. The importance of calling 911 as soon as possible and the potential need for rescue breathing.

c. The appropriate use and directions for administration of the opioid antagonist to be dispensed pursuant to the standing order.

d. Adverse reactions of the opioid antagonist as well as reactions resulting from opioid withdrawal following administration.

e. The proper storage conditions, including temperature excursions, of the opioid antagonist being dispensed.

f. The expiration date of the opioid antagonist being dispensed and the appropriate disposal of the opioid antagonist upon expiration.

g. The prohibition of the recipient from further distributing the opioid antagonist to another individual, unless that individual has received appropriate training and education.

h. Information about substance abuse or behavioral health treatment programs.

39.7(6) *Labeling.* Upon the determination that a recipient is eligible to receive and possess an opioid antagonist, an authorized pharmacist shall label the product pursuant to rule 657—6.10(126,155A) and 657—subrule 8.19(8). An authorized pharmacist shall ensure that the labeling does not render the expiration date of the product illegible. The medication shall be dispensed in the name of the eligible recipient.

39.7(7) *Reporting.* A copy of the assessment form shall be submitted to the department as provided on the assessment form within seven days of the dispensing of the opioid antagonist or within seven days of a denial of eligibility.

39.7(8) *Records.* An authorized pharmacist shall create and maintain an original record of each individual assessment on forms provided by the board, regardless of the eligibility determination following assessment, and dispensing of opioid antagonists pursuant to a standing order. These records shall be available for inspection and copying by the board or its authorized agent for at least two years.

657—39.8 and **39.9** Reserved.

657—39.10(155A) Vaccine administration by pharmacists. An authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this

rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

39.10(1) *Definitions.* For the purposes of this rule, the following definitions shall apply:

"ACIP" means the CDC Advisory Committee on Immunization Practices.

"ACPE" means the Accreditation Council for Pharmacy Education.

"Authorized pharmacist" means an Iowa-licensed pharmacist who has met the requirements identified in subrule 39.10(2).

"Authorized pharmacist-intern" means an Iowa-registered pharmacist-intern who has met the requirements for an authorized pharmacist identified in paragraphs 39.10(2)*"a"* and *"c."*

"CDC" means the United States Centers for Disease Control and Prevention.

"Immunization" shall have the same meaning as, and shall be interchangeable with, the term "vaccine."

"Protocol" means a standing order for a vaccine to be administered by an authorized pharmacist.

"Vaccine" means a specially prepared antigen administered to a person for the purpose of providing immunity.

39.10(2) *Authorized pharmacist training and continuing education.* An authorized pharmacist shall document successful completion of the requirements in paragraph 39.10(2)*"a"* and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 39.10(2)*"b."*

a. Initial qualification. An authorized pharmacist shall have successfully completed an organized course of study in a college or school of pharmacy or an ACPE-accredited continuing education program on vaccine administration that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers.

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current CDC guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;
2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment, counseling, and identification of contraindications to the vaccine;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. Continuing education. During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of continuing education related to vaccines.

c. Certification maintained. During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers.

39.10(3) *Protocol requirements.* A pharmacist may administer vaccines pursuant to a protocol based on CDC recommendations. A protocol shall be unique to a pharmacy. The pharmacy shall comply with the parameters of the protocol. The prescriber who signs a protocol shall identify within the protocol, by name or category, those pharmacists or other qualified health professionals that the prescriber is authorizing to administer vaccines pursuant to the protocol. A protocol:

a. Shall be signed by an Iowa-licensed prescriber practicing in Iowa.

b. Shall expire no later than one year from the effective date of the signed protocol.

c. Shall be effective for patients who wish to receive a vaccine administered by an authorized pharmacist, who meet the CDC recommended criteria, and who have no contraindications as published by the CDC.

d. Shall require the authorized pharmacist to notify the prescriber who signed the protocol within 24 hours of a serious complication, and the pharmacist shall submit a Vaccine Advisory Event Reporting System (VAERS) report.

e. Shall specifically indicate whether the authorizing prescriber agrees that the administration of vaccines may be delegated by the authorized pharmacist to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

39.10(4) *Influenza and other emergency vaccines.* An authorized pharmacist shall only administer via protocol, to patients six years of age and older, influenza vaccines and other emergency vaccines in response to a public health emergency.

39.10(5) *Other adult vaccines.* An authorized pharmacist shall only administer via protocol, to patients 18 years of age and older, the following vaccines:

a. A vaccine on the ACIP-approved adult vaccination schedule.

b. A vaccine recommended by the CDC for international travel.

39.10(6) *Vaccines administered via prescription.* An authorized pharmacist may administer any vaccine pursuant to a prescription or medication order for an individual patient. In case of a serious complication, the authorized pharmacist shall notify the prescriber who authorized the prescription within 24 hours and shall submit a VAERS report.

39.10(7) *Verification and reporting.* The requirements of this subrule do not apply to influenza and other emergency vaccines administered via protocol pursuant to subrule 39.10(4). An authorized pharmacist shall:

a. Prior to administering a vaccine identified in subrule 39.10(5) or 39.10(6), consult the statewide immunization registry or health information network.

b. Within 30 days following administration of a vaccine identified in subrule 39.10(5) or 39.10(6), report the vaccine administration to the statewide immunization registry or health information network and to the patient's primary health care provider, if known.

657—39.11 and **39.12** Reserved.

657—39.13(155A) Collaborative drug therapy management. An authorized pharmacist may only perform collaborative drug therapy management pursuant to protocol with an authorized provider pursuant to the requirements of this rule. The authorized provider retains the ultimate responsibility for the care of the patient. The pharmacist is responsible for all aspects of drug therapy management performed by the pharmacist.

39.13(1) *Definitions.* For the purpose of this rule, the following definitions shall apply:

"Authorized pharmacist" means an Iowa-licensed pharmacist whose license is in good standing and who meets the drug therapy management criteria defined in this subrule.

"Authorized provider" means an Iowa-licensed prescribing practitioner who is authorized by the practitioner's professional licensing authority to participate in a collaborative practice agreement with an authorized pharmacist pursuant to these rules and the rules of the practitioner's professional licensing authority. An authorized provider who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The authorized provider may delegate only drug therapies that are in areas common to the authorized provider's practice.

"Board" means the board of pharmacy.

"Collaborative drug therapy management" means participation by an authorized pharmacist and an authorized provider in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

"Collaborative practice" means that an authorized provider may delegate aspects of drug therapy management for the authorized provider's patients to an authorized pharmacist through a community

practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and hospital clinic patients through a hospital practice protocol.

"Community practice protocol" means a written, executed agreement entered into voluntarily between an authorized pharmacist and an authorized provider establishing drug therapy management for one or more of the pharmacist's and authorized provider's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 39.13(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home, group home, assisted living facility, correctional facility, hospice, or long-term care facility.

"Drug therapy management criteria" means one or more of the following:

1. Graduation from a recognized school or college of pharmacy with a doctor of pharmacy (Pharm.D.) degree;
2. Certification by the Board of Pharmaceutical Specialties (BPS);
3. Certification by the Commission for Certification in Geriatric Pharmacy (CCGP);
4. Successful completion of a National Institute for Standards in Pharmacist Credentialing (NISPC) disease state management examination and credentialing by the NISPC;
5. Successful completion of a pharmacy residency program accredited by the American Society of Health-System Pharmacists (ASHP); or
6. Approval by the board of pharmacy.

"Hospital clinic" means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between hospital pharmacists and authorized providers within a hospital and the hospital's clinics as developed and determined by the hospital's P&T committee. Such a protocol may apply to all pharmacists and authorized providers at a hospital or the hospital's clinics or only to those pharmacists and authorized providers who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 39.13(3).

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and administration in the hospital, and manages the hospital drug formulary system.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

39.13(2) *Community practice protocol.*

a. An authorized pharmacist shall engage in collaborative drug therapy management with an authorized provider only under a written protocol that has been identified by topic. Protocols shall be made available upon request of the board or the licensing board of the authorized provider.

b. The community practice protocol shall include:

(1) The name, signature, date, and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal authorized pharmacist shall be designated in the protocol.

(2) The name, signature, date, and contact information for each authorized provider who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The authorized provider who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal authorized provider.

(3) The name and contact information of the principal authorized provider and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.

(4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the patient's authorized provider. The protocol shall not authorize the pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the patient's authorized provider for follow-up.

4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

(5) Procedures for securing the patient's written consent. If the patient's consent is not secured by the authorized provider, the authorized pharmacist shall secure such and notify the patient's authorized provider within 24 hours.

(6) Circumstances that shall cause the authorized pharmacist to initiate communication with the authorized provider including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.

(7) A detailed statement identifying the specific drugs, laboratory tests, and physical findings upon which the authorized pharmacist shall base drug therapy management decisions.

(8) A provision for the collaborative drug therapy management protocol to be reviewed, updated, and reexecuted or discontinued at least every two years.

(9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the authorized provider.

(10) A description of the types of reports the authorized pharmacist is to provide to the authorized provider and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame within which a pharmacist shall report any adverse reaction to the authorized provider.

(11) A statement of the medication categories and the type of initiation and modification of drug therapy that the provider authorizes the pharmacist to perform.

(12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.

(13) Procedures for record keeping, record sharing, and long-term record storage.

(14) Procedures to follow in emergency situations.

(15) A statement that prohibits the authorized pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.

(16) A statement that prohibits an authorized provider from delegating collaborative drug therapy management to any unlicensed or licensed person other than another authorized provider or an authorized pharmacist.

(17) A description of the mechanism for the pharmacist and the authorized provider to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.

c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least one authorized pharmacist and at least one authorized provider.

d. The collaborative drug therapy protocol shall be kept on file in the pharmacy and be made available upon request of the board or the authorized provider's licensing board.

e. An authorized provider may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the authorized provider notifies the authorized pharmacist in writing. Notification shall include the name of the authorized pharmacist, the desired change, and the

proposed effective date of the change. Written notification shall be maintained in the pharmacy and be made available upon request of the board or the authorized provider's licensing board.

f. The authorized provider or pharmacist who initiates a protocol with a patient is responsible for securing the patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours. The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient shall be communicated to the other party at the time of securing the patient's consent. The patient's authorized provider shall maintain the patient consent in the patient's medical record.

39.13(3) *Hospital practice protocol.*

a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by the hospital's pharmacists.

b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.

c. The hospital practice protocol shall include:

(1) The names or groups of pharmacists and providers who are authorized by the P&T committee to participate in collaborative drug therapy management.

(2) A plan for development, training, administration, and quality assurance of the protocol.

(3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the authorized provider. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the authorized provider for follow-up.

(4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's authorized provider including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.

(5) A statement of the medication categories and the type of initiation and modification of drug therapy that the P&T committee authorizes the hospital pharmacist to perform.

(6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.

(7) A description of the mechanism for the hospital pharmacist and the patient's authorized provider to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

657—39.14 and **39.15** Reserved.

657—39.16(155A) Pharmacy pilot or demonstration research projects. The purpose of this rule is to specify the procedures to be followed in applying for approval of a pilot or demonstration research project for innovative applications in the practice of pharmacy as authorized by 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, chapter 1113, section 31, and by 2013 Iowa Acts, chapter 138, section 128. In reviewing projects, the board will consider only projects that expand pharmaceutical care services that contribute to positive patient outcomes. The board will not consider any project intended only to provide a competitive advantage to a single applicant or group of applicants.

39.16(1) *Definitions.* For the purposes of this rule, the following definitions shall apply:

"Act" means Iowa Code chapter 155A, the Iowa pharmacy practice Act.

"Board" means the Iowa board of pharmacy.

"Practice of pharmacy" means the practice of pharmacy as defined in Iowa Code section 155A.3(34).

"Project" means a pilot or demonstration research project as described in this rule.

39.16(2) *Scope of project.* A project may not expand the definition of the practice of pharmacy. A project may include therapeutic substitution or substitution of medical devices used in patient care if such substitution is included under a collaborative drug therapy management protocol established pursuant to rule 657—39.13(155A).

39.16(3) *Board approval of a project.* Board approval of a project may include the grant of an exception to or a waiver of rules adopted under the Act or under any law relating to the authority of prescription verification and the ability of a pharmacist to provide enhanced patient care in the practice of pharmacy. Project approval, including exception to or waiver of board rules, shall initially be for a specified period of time not exceeding 18 months from commencement of the project. The board may approve the extension or renewal of a project following consideration of a petition that clearly identifies the project, that includes a report similar to the final project report described in paragraph 39.16(6)*"a,"* that describes and explains any proposed changes to the originally approved and implemented project, and that justifies the need for extending or renewing the term of the project.

39.16(4) *Applying for approval of a project.* A person who wishes the board to consider approval of a project shall submit to the board a petition for approval that contains at least the following information:

a. Responsible pharmacist. Name, address, telephone number, and pharmacist license number of each pharmacist responsible for overseeing the project.

b. Location of project. Name, address, and telephone number of each specific location and, if a location is a pharmacy, the pharmacy license number where the proposed project will be conducted.

c. Project summary. A detailed summary of the proposed project that includes at least the following information:

(1) The goals, hypothesis, and objectives of the proposed project.

(2) A full explanation of the project and how it will be conducted.

(3) The time frame for the project including the proposed start date and length of study. The time frame may not exceed 18 months from the proposed start date of the project.

(4) Background information or literature review to support the proposed project.

(5) The rule or rules to be waived in order to complete the project and a request to waive the rule or rules.

(6) Procedures to be used during the project to ensure that the public health and safety are not compromised as a result of the waiver.

39.16(5) *Review and approval or denial of a proposed project.*

a. Staff review. Upon receipt of a petition for approval of a project, board staff shall initially review the petition for completeness and appropriateness. If the petition is incomplete or inappropriate for board consideration, board staff shall return the petition to the requestor with a letter explaining the reason the petition is being returned. A petition that has been returned pursuant to this paragraph may be amended or supplemented as necessary and submitted for reconsideration.

b. Board review. Upon review by the board of a petition for approval of a project, the board shall either approve or deny the petition. If the board approves the petition, the approval:

(1) Shall be specific for the project requested;

(2) Shall approve the project for a specific time period; and

(3) May include conditions or qualifications applicable to the project.

c. Inspection. The project site and project documentation shall be available for inspection and review by the board or its representative at any time during the project review and the approval or denial processes and, if a project is approved, throughout the approved term of the project.

d. Documentation maintained. Project documentation shall be maintained and available for inspection, review, and copying by the board or its representative for at least two years following completion or termination of the project.

39.16(6) *Presentation of reports.* The pharmacist responsible for overseeing a project shall be responsible for submitting to the board any reports required as a condition of a project, including the final project report.

a. Final project report. The final project report shall include a written summary of the results of the project and the conclusions drawn from those results. The final project report shall be submitted to the board within three months after completion or termination of the project.

b. Board review. The board shall receive and review any report regarding the progress of a project and the final project report at a regularly scheduled meeting of the board. The report shall be an item on the open session agenda for the meeting.

These rules are intended to implement Iowa Code sections 135.190, 147.76, 147A.18, 155A.2, 155A.3, 155A.13, 155A.33, and 155A.44 and 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, chapter 1113, section 31, and by 2013 Iowa Acts, chapter 138, section 128.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3859C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to care facility pharmacy practice

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," and Chapter 23, "Long-Term Care Pharmacy Practice," 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 sections 124.301, 124.306, 124.308, 155A.2, 155A.13, 155A.15, 155A.21, 155A.27, 155A.28, 155A.33, 155A.35 and 155A.36.

Purpose and Summary

Pursuant to Iowa Code section 17A.7(2), the Board conducted an overall review of Chapter 23 of the Board's administrative rules. These amendments update language for consistency, remove redundancy, combine and condense rules where appropriate, and clarify prescription requirements for controlled substances to be consistent with federal regulations. The amendment in Chapter 10 updates a cross reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3511C**.

The Board received numerous comments related to several amendments. Comments were received in opposition to the requirements that a pharmacy's policies and procedures include policies related to automatic stop orders and methods to ensure that drug containers are labeled properly and are not in a state of disrepair. The Board rejected these comments as the rule simply requires that the pharmacy have

a policy related to these areas, but does not direct what that policy says. One comment suggested that the Board change the term "care facility" to "care center," but the Board declined to make this change as other chapters of administrative rules use the term "care facility." One comment proposed to expand the authority of care facilities to administer all vaccinations pursuant to physician-approved facility policy, without a patient-specific medication order. The administration of influenza or pneumococcal immunizations in a care facility pursuant to facility policy and absent a patient-specific medication order is specifically authorized in Medicare regulations. Medicare regulations do not authorize such administration of all immunizations in this manner.

The Board made changes to three amendments based on the comments it agreed with. Rule 657—23.3(124,155A), related to patient freedom of choice, is further amended to defer to the rules of the Department of Inspections and Appeals with regard to the patient's right to choose a physician and pharmacy when residing in a care facility. Subrule 23.9(3) is further amended to clarify that an agent agreement between a nurse in a care facility and a prescribing practitioner for the purpose of the transmission of a prescription specifically applies to the transmission of a controlled substance prescription in compliance with guidance from the Drug Enforcement Administration (DEA). Subrule 23.21(2) is further amended to better describe a pharmacy's role and responsibility in operating a DEA-compliant collection receptacle in a care facility.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—10.28(124) as follows:

657—10.28(124) Schedule II medication order. Schedule II controlled substances may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule ~~657—23.18(124,155A)~~ 657—23.9(124,155A), as applicable.

ITEM 2. Amend **657—Chapter 23**, title, as follows:

~~LONG-TERM~~ CARE FACILITY PHARMACY PRACTICE

ITEM 3. Rescind rule 657—23.1(155A) and adopt the following **new** rule in lieu thereof:

657—23.1(155A) Purpose and scope. The purpose of this chapter is to identify the minimum standards for licensed pharmacies in this state providing pharmacy services to care facilities.

ITEM 4. Rescind rule 657—23.2(124,155A) and adopt the following **new** rule in lieu thereof:

657—23.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Authorized collection program" means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at www.deadiversion.usdoj.gov/drug_disposal.

"Care facility" or *"facility"* means:

1. A facility licensed by the Iowa department of inspections and appeals under Iowa Code chapter 135C or 135H;
2. A hospital-based long-term care unit certified under 42 CFR, Part 483, Subpart B;
3. An inpatient hospice certified under 42 CFR, Part 418;
4. A group living facility wherein health care-related services are provided by the facility; or
5. A health care facility registered with the board under Iowa Code chapter 124.

"Care facility pharmacy" or *"provider pharmacy"* means a pharmacy that provides pharmacy services to a care facility.

"Consultant pharmacist" in a care facility means an Iowa-licensed pharmacist who is responsible for developing, coordinating, and supervising pharmaceutical services in a care facility on a regularly scheduled basis.

"DEA" means the United States Department of Justice, Drug Enforcement Administration.

"Medication order," as used in these rules, means an order from a practitioner or the practitioner's authorized agent for administration of a drug or device. For purposes of this chapter, "medication order" includes a prescription.

"Provider pharmacist" means a pharmacist licensed to engage in the practice of pharmacy who is employed by or contracted to a care facility pharmacy or a provider pharmacy and who is responsible for supervising the accurate dispensing and proper delivery of drugs and devices to a care facility located within this state. These services shall include, at a minimum, proper medication labeling, storage, transport, record keeping, and prospective drug utilization review in compliance with all federal and state laws and regulations.

"Unit dose dispensing system" means a drug distribution system utilizing unit dose packaging.

ITEM 5. Amend rule 657—23.3(124,155A) as follows:

657—23.3(124,155A) Freedom of choice. Pursuant to 657—subrule ~~8.11(5)~~ 8.11(2), no pharmacist or pharmacy shall participate in any agreement or plan that infringes on any resident's right to freedom of choice ~~as to the provider of pharmacy services~~ as described in rules of the department of inspections and appeals. ~~A resident in a long-term care facility shall have a choice of long-term care pharmacy so long as the pharmacy's drug delivery system provides for the timely delivery of drugs compatible with the established system currently used by the facility. Determination of compatibility may consider medication administration, accessibility, and payment system.~~

ITEM 6. Amend rule 657—23.4(124,155A) as follows:

657—23.4(124,155A) Responsibilities. The pharmacist in charge and staff pharmacists in any pharmacy providing pharmaceutical services to ~~long-term~~ care facility patients shall share responsibility for:

1. ~~Providing~~ Dispensing drugs pursuant to a medication order for an individual resident~~,~~ that are properly labeled ~~for that resident, as addressed in rule 657—22.1(155A) or 657—23.13(124,155A)~~ and packaged in a manner consistent with the facility's established drug delivery system and in compliance with applicable board rules for the drug delivery system.

~~2. Dispensing drugs for residents of long-term care facilities consistent with the drug distribution system described in the facility's policies and procedures.~~

~~3.~~ 2. Affixing labels to each container of drugs for residents in ~~long-term~~ care facilities, in compliance with ~~rule 657—22.1(155A),~~ 657—Chapter 22 or rule 657—6.10(126,155A), 657—23.13(124,155A), or 657—23.14(124,155A).

~~4.~~ 3. Maintaining records ~~of all transactions of the long-term care pharmacy~~ as ~~may be~~ required by law and maintaining accurate control over and accountability for all drugs and prescription devices.

~~5.~~ 4. Complying with a drug recall procedure, established pursuant to rule 657—8.3(155A), that protects the health and safety of residents ~~including immediate discontinuation of any recalled drug or device and subsequent notification of the prescriber and director of nursing of the facility~~.

~~6.~~ 5. Providing 24-hour emergency service either directly or by contract with another pharmacy.

~~7.~~ 6. ~~Reviewing patient profiles to ensure the appropriateness of therapy for that resident and the compatibility of the drug and dosage for that resident when processing new medication orders.~~ Conducting prospective drug use review pursuant to rule 657—8.21(155A) and subrule 23.5(1).

~~8.~~ 7. Providing sufficient and accurate information to facility staff regarding the appropriate administration and use of all dispensed drugs and devices.

~~9.~~ 8. Communicating with the consultant pharmacist and the facility staff regarding concerns and resolution thereof.

ITEM 7. Amend rule 657—23.5(124,155A) as follows:

657—23.5(124,155A) Emergency drugs. A supply of emergency drugs may be provided by one or more ~~long-term care provider~~ pharmacies to the facility pursuant to rule 657—22.7(124,155A).

23.5(1) No change.

23.5(2) *Other emergency drugs and devices.* In addition to ~~one or more~~ emergency ~~boxes or stat drug boxes~~ drug supplies, a ~~long-term~~ care facility ~~staffed by one or more persons licensed to administer drugs~~ may maintain a stock of intravenous fluids, irrigation fluids, heparin flush kits, medicinal gases, sterile water and saline, and prescription devices. Such stock shall be limited to a listing to be determined by the provider pharmacist in consultation with the consultant pharmacist and the medical director and director of nursing of the facility.

ITEM 8. Rescind and reserve rule **657—23.6(124,155A)**.

ITEM 9. Amend rule 657—23.7(124,155A) as follows:

657—23.7(124,155A) Policies and procedures. Pursuant to rule 657—8.3(155A), each pharmacy shall have policies and procedures related to all aspects of the pharmacy's packaging and dispensing responsibilities to the residents of ~~the long-term~~ a care facility. The policies and procedures shall be maintained at the provider pharmacy and shall be available to the facility and the consultant pharmacist. Policies and procedures shall include, at a minimum:

1. Methods used to dispense and deliver drugs and devices to the facility in a timely fashion~~;~~.
2. Proper notification to the facility when a drug or device is not readily available~~;~~.
3. Proper labeling requirements to meet the needs of the facility and which are consistent with state and federal laws and regulations~~;~~.
4. Appropriate drug destruction or return of unused drugs, or both, consistent with state and federal laws and regulations.
5. An automatic stop order policy to ensure that drug orders are not continued inappropriately.
6. Methods to ensure that all discontinued, outdated, deteriorated, or improperly labeled drugs and all containers with worn, illegible or missing labels are disposed of so as to render them unusable and protected from unauthorized possession or use.

ITEM 10. Amend rule 657—23.9(124,155A) as follows:

657—23.9(124,155A) Medication orders. Drugs and prescription devices may be dispensed only upon orders of an authorized prescriber or authorized pharmacist as part of a collaborative drug therapy management protocol pursuant to rule 657—39.13(155A).

23.9(1) *Requirements for noncontrolled substances.* New medication orders transmitted to the pharmacy for ~~drugs for residents of the facility~~ noncontrolled substances shall, at a minimum, contain resident name, drug name and strength, directions for use, date of order, and name of prescriber. ~~Orders for Schedule II controlled substances shall comply with the requirements of rule 657—23.18(124,155A).~~

23.9(2) ~~*Abbreviations*~~ *Requirements for controlled substances.* ~~Abbreviations or chemical symbols utilized in medication orders shall be only those abbreviations or symbols that are customarily used in the practice of medicine and pharmacy or those on a list of approved abbreviations developed by the appropriate committee or representative of the facility.~~ New medication orders transmitted to the pharmacy for controlled substances, including Schedule II controlled substances, shall be in compliance with 657—Chapter 10, 657—Chapter 21, and federal regulations.

23.9(3) *Who may transmit medication orders.* An authorized prescriber or prescriber's agent ~~or any person who is employed by a long-term care facility and who is authorized by the facility's policies and procedures~~ may transmit to the ~~long-term care~~ pharmacy a medication order lawfully ordered by ~~a practitioner~~ an authorized ~~to prescribe drugs and devices~~ prescriber. An order transmitted by the prescriber's agent shall include the agent's first and last names and title. Specifically for the transmission of a controlled substance prescription, a member of the care facility staff is an agent of the prescriber only if the prescriber maintains an office in the facility or there exists an agent agreement between the prescriber and the care facility staff member.

~~**23.9(4)** *Influenza and pneumococcal vaccines.* As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's record. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy.~~

ITEM 11. Rescind and reserve rule **657—23.10(124,155A)**.

ITEM 12. Amend rule 657—23.11(124,155A) as follows:

657—23.11(124,155A) Drugs dispensed—general requirements.

23.11(1) *Labeling.* All prescription containers, other than those dispensed pursuant to ~~rule 657—22.1(155A)~~ 657—Chapter 22, rule 657—23.13(124,155A), or rule 657—23.14(124,155A), shall be properly labeled in accordance with 657—subrule 6.10(1).

a. If a label change is required to reflect a change in directions, the ~~pharmacy~~ pharmacist shall be responsible for affixing the correct label to the container. ~~Long-term care~~ Care facility personnel shall not be ~~authorized~~ directed by the pharmacy to affix such a label to the drug container.

b. Direction change labels that notify ~~long-term~~ care facility personnel that a change in directions for the drug has taken place may be used and affixed to the container by facility personnel so as not to deface the original label.

23.11(2) *Medication order required.* Dispensing of all drugs to the facility shall be pursuant to a medication order for an individual resident except as provided in rules 657—23.5(124,155A) and 657—23.14(124,155A) ~~and in subrule 23.9(4)~~.

23.11(3) *Prescription containers.* All prescription containers~~, including but not limited to single unit, unit dose, and unit of issue containers~~ utilized for ~~distribution within~~ dispensing drugs to a ~~long-term~~ care facility~~,~~ shall meet minimum requirements as established by the United States Pharmacopoeia and 657—Chapter 22. When applicable, light-resistant packaging shall be used.

23.11(4) *Floor stock.* Prescription drugs, as defined by Iowa Code section ~~155A.3(37)~~ 155A.3(38), shall not be floor-stocked in a ~~long-term~~ care facility except as provided in this subrule or in subrule

23.5(2). Bulk supplies of nonprescription drugs may be maintained as provided in subrule 23.13(3). Any pharmacy that utilizes a floor stock distribution system pursuant to this subrule shall develop and implement procedures to accurately establish proof of use of prescription drugs and shall maintain a perpetual inventory, whether by electronic or manual means, of all prescription drugs so dispensed. A floor stock distribution system for prescription drugs may be permitted only under the following circumstances:

a. and *b.* No change.

ITEM 13. Amend rule 657—23.13(124,155A) as follows:

657—23.13(124,155A) Labeling drugs under special circumstances.

23.13(1) ~~*Insulin, ophthalmics, otic preparations, biologicals, and other injectables for individual patients*~~ *Drug products of insufficient size to accommodate pharmacy labeling.* ~~These drugs~~ Drug products, such as insulin, ophthalmics, otic preparations, and injectables, that are of insufficient size to accommodate a full pharmacy label shall be dispensed with a label affixed to the immediate container showing at least the resident's name and location.

23.13(2) *Legend solutions—irrigation and infusion.* Legend irrigation solutions and infusion solutions supplied by a ~~licensed~~ pharmacy may be stored in the locked medication area of a ~~long-term~~ care facility provided that:

a. to *c.* No change.

d. The solution is stored appropriately after opening according to facility policy and manufacturer labeling.

23.13(3) *Floor-stocked, nonprescription drug containers.* All ~~such~~ nonprescription drugs ~~intended~~ for use within the facility shall be in appropriate containers and adequately labeled to identify, at a minimum, ~~brand name or generic~~ drug name and manufacturer, strength, lot number, and expiration date. ~~An internal code that centrally references manufacturer and lot number may be utilized.~~

23.13(4) and **23.13(5)** No change.

ITEM 14. Amend rule 657—23.14(124,155A) as follows:

657—23.14(124,155A) ~~Labeling of biologicals and other injectables supplied~~ Provision of drugs to a facility for immunization or screening programs. ~~Labeling of biologicals and other injectables supplied to a~~ A pharmacy may provide drugs to be used in the care facility for a health immunization or ongoing screening program, such as influenza vaccine, tuberculin skin test, or hepatitis-B~~, and intended for use in the facility, shall include the following information in addition to the manufacturer's label~~.

23.14(1) *Labeling.* The pharmacy label shall be affixed so as not to obscure the manufacturer's label and shall include the following information.

~~1.~~ *a.* Identification of pharmacy;

~~2.~~ *b.* Name of facility;

~~3.~~ *c.* Name of biological or drug;

~~4.~~ *d.* Route of administration when necessary for clarification;

~~5.~~ *e.* Strength of biological or drug;

~~6.~~ *f.* Auxiliary labels as needed;

~~7.~~ *g.* Date dispensed.

23.14(2) *Influenza and pneumococcal vaccines.* A patient-specific medication order shall not be required prior to administration to an adult patient of influenza or pneumococcal vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications.

23.14(3) *Notification.* The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy.

ITEM 15. Amend rule 657—23.15(124,155A) as follows:

657—23.15(124,155A) Return and reuse of drugs and devices. ~~Pharmacists and pharmacies~~ A pharmacy shall not accept from ~~residents or their agents~~ a patient or facility for reuse or resale any ~~drugs, prescribed drugs, chemicals, poisons or medical devices~~ drug or device unless, in the professional judgment of the pharmacist, the integrity of the ~~prescription~~ drug or device has not in any way been compromised. Under no circumstances shall a pharmacist accept from a patient or ~~patient's agent~~ facility any controlled substances ~~for return, exchange, or resale~~ except ~~to~~ for reuse by the same patient. Prescription drugs, excluding controlled substances, dispensed in a unit dose~~, unit of issue, or single unit packaging~~ dispensing system pursuant to ~~657—22.1(155A)~~ 657—Chapter 22 may, however, be returned and reused as authorized in 657—subrule 22.1(6). No items of a personal contact nature which have been removed from the original package or container after ~~sale~~ dispensing shall be accepted for return, exchanged, or resold by any pharmacist.

ITEM 16. Rescind and reserve rule **657—23.16(124,155A)**.

ITEM 17. Amend rule 657—23.17(124,155A) as follows:

657—23.17(124,155A) Accountability of controlled substances.

~~23.17(1)~~ *~~Proof of use.~~* ~~Documentation of use~~ Use of Schedule II controlled substances shall be ~~upon proof-of-use forms~~ documented. A committee or representative of the facility may also require that Schedule III, IV, or V controlled substances or any other drugs be accounted for on proof-of-use forms. ~~Proof-of-use forms~~ Documentation shall ~~specify~~ include at a minimum:

~~*a.*~~ 1. Name of drug;

~~*b.*~~ 2. Dose;

~~*c.*~~ 3. Name of ordering prescriber;

~~*d.*~~ 4. Name of resident;

~~*e.*~~ 5. Date and time of administration to resident;

~~*f.*~~ 6. Identification of individual administering;

~~*g.*~~ 7. Documentation of destruction, return to the pharmacy, or other disposition of all unused portions of single doses including the signatures of two individuals, at least one of whom is a licensed health care professional.

~~23.17(2)~~ *~~Container requirement.~~* ~~Any drug required to be counted and accounted for with proof-of-use forms shall be dispensed in a container that allows visual verification of quantity. Containers for solid oral doses must allow visual identification of individual doses and individual accountability.~~

ITEM 18. Rescind and reserve rule **657—23.18(124,155A)**.

ITEM 19. Amend rule 657—23.21(124,155A) as follows:

657—23.21(124,155A) Disposal of previously dispensed controlled substances. Controlled substances dispensed to a resident in a ~~long-term~~ care facility and subsequently requiring disposal due to discontinuance of the drug, death of the resident, or other reasons necessitating disposal shall be disposed of by one of the following methods. Controlled substances shall not be returned to a pharmacy for disposal.

23.21(1) *Disposal in the facility.* ~~In facilities staffed by one or more persons licensed to administer drugs, a~~ A licensed health care professional (pharmacist, registered nurse, licensed practical nurse) may dispose of controlled substances in witness of one other responsible adult. The professional disposing of the drug shall prepare and maintain a readily retrievable record of the disposition which shall be clearly marked to indicate the disposition of resident drugs. The record shall include, at a minimum, the following:

a. to *f.* No change.

23.21(2) *Authorized collection program within a facility.* ~~Registrants~~ Pharmacies registered with DEA ~~to administer an authorized collection program~~ as authorized collectors may install and ~~maintain~~

manage a collection receptacle in a ~~long-term~~ care facility for the purpose of disposal of ~~prescription drugs~~ unwanted medications, including prescription drugs and controlled substances, pursuant to federal regulations~~, which can be found at http://deadiversion.usdoj.gov/drug_disposal/~~.

[Filed 5/29/18, effective 7/25/18]
[Published 6/20/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/20/18.

ARC 3860C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to synthetic opioids, opioid analgesic, and precursor substances

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3701C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraphs **10.39(2)"aa"** to **"am"**:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ARC 3861C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to service program registration

The Board of Pharmacy hereby amends Chapter 11, "Drugs in Emergency Medical Service Programs," 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 124.302.

Purpose and Summary

This amendment removes the requirement that service programs obtain registration with the Drug Enforcement Administration (DEA) as DEA does not currently have a registration category in Iowa for such programs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3507C**. The Board received one comment in support of the amendment. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making action is adopted:

Amend subrule 11.3(1) as follows:

11.3(1) *Medical director-based service program.* In a medical director-based service program, CSA and DEA registrations shall be obtained for each primary program site in the name of the medical director. CSA and DEA registrations shall be obtained prior to procurement of any controlled substances for use in the service program. Separate registrations for program substations shall not be required. In a medical director-based service program, ~~the~~ a CSA ~~and DEA registrations~~ registration shall also be ~~issued~~ obtained in the name of the service program, shall secondarily name the medical director, and shall be issued for the address of the service program's primary program site.

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ARC 3862C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to telepharmacy delivery drivers

The Board of Pharmacy hereby amends Chapter 13, "Telepharmacy Practice," 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 sections 155A.6B and 155A.13.

Purpose and Summary

This amendment allows a telepharmacy to utilize the services of a delivery driver when that individual is registered as a pharmacy support person. The amendment only authorizes the individual to engage in delivery activities and not in the entirety of other nontechnical functions for which a pharmacy support person is authorized.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3508C**. The Board received two comments in opposition to the general concept of telepharmacy sites providing delivery service, an activity which is not prohibited in the Iowa Code or newly created in this amendment. One comment was received in support of the amendment. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making action is adopted:

Amend subrule 13.8(7) as follows:

13.8(7) *Prohibited activities.* In the physical absence of a pharmacist, the following activities are prohibited:

a. Practice of pharmacist-interns or pharmacy support persons at the telepharmacy site, except that a pharmacy support person may deliver prescriptions to patients outside the telepharmacy site but may not engage in prescription delivery or any other activities at the telepharmacy site.

b. to *f.* No change.

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ARC 3863C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to centralized prescription filling and processing

The Board of Pharmacy hereby amends Chapter 18, "Centralized Prescription Filling and Processing," Iowa Administrative Code.

Legal Authority for Rule Making

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

PHARMACY BOARD[657](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.301, 124.306, 124.308, 155A.13 and 155A.28.

Purpose and Summary

Pursuant to Iowa Code section 17A.7(2), the Board completed an overall review of this chapter of administrative rules. These amendments clarify records requirements, update language to be consistent with other Board rules, and remove redundancies that exist in other applicable chapters of Board rules. These amendments also remove the implication that central fill pharmacies can only enter into agreements with pharmacies that are in good standing.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3512C**. The Board received two comments related to this rule making. One comment was in support of the Board's review of this chapter. The second comment did not provide specific concerns related to the amendments but rather provided suggested alternate language. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 23, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 25, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—18.3(155A) as follows:

657—18.3(155A) General requirements.

18.3(1) *Essential qualifications.* An originating pharmacy may outsource prescription drug filling to a central fill pharmacy or prescription drug order processing to a central processing pharmacy provided the pharmacies:

a. Have the same owner or have entered into a written contract or agreement, which is available for inspection and copying by the board or its authorized agent, that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. No change.

18.3(2) No change.

18.3(3) *Originating pharmacy responsibility.* Except as specifically provided by this subrule, the originating pharmacy shall be responsible for all dispensing functions as the term "dispense" is defined in rule 657—18.2(155A). An originating pharmacy contracting only for centralized filling shall retain responsibility for all processing functions, and an originating pharmacy contracting only for centralized processing shall retain responsibility for all filling functions.

a. No change.

b. A central fill or a central processing pharmacy that shares a common central processing unit with the originating pharmacy may perform prospective drug use review (DUR) pursuant to rule 657—8.21(155A). Only a pharmacist shall perform the DUR~~; the~~, and such review shall not be delegated ~~to a pharmacy technician, registered nurse, or other pharmacy support person~~. The pharmacist performing the DUR shall document in the shared patient record all concerns, recommendations, observations, and comments resulting from that review. The pharmacist at the originating pharmacy shall utilize the DUR notes in counseling the patient pursuant to rule 657—6.14(155A).

18.3(4) *Central fill label requirements.* The label affixed to the prescription container filled by a central fill pharmacy on behalf of an originating pharmacy shall include the following:

a. to *h.* No change.

i. The initials or other unique identification of the pharmacist ~~in the originating pharmacy~~ who performed drug use review ~~and transmitted the prescription drug order to the central fill pharmacy~~.

ITEM 2. Amend subrule 18.5(2) as follows:

18.5(2) *Exception.* The provisions of this rule do not apply to a patient in a facility, such as a hospital or ~~long-term~~ care facility, where Iowa law requires that drugs be administered to the patient by a health care professional.

ITEM 3. Amend rule 657—18.10(155A) as follows:

657—18.10(155A) Policy and procedures.

~~**18.10(1)** *Manual maintained.*~~ Pursuant to rule 657—8.3(155A), a policy and procedure manual relating to centralized filling or centralized processing activities shall be maintained at all pharmacies involved in centralized filling or centralized processing and shall be available for inspection and copying by the board or ~~an~~ its authorized agent ~~of the board~~.

~~**18.10(2)** *Manual contents.*~~ The manual shall:

~~*a.*~~ 1. Outline the responsibilities of each of the pharmacies;

~~*b.*~~ 2. Include a list of the names, addresses, telephone numbers, and all license and registration numbers of the pharmacies involved in centralized filling or centralized processing; and

~~*c.* Include evidence that all licenses and registrations have been verified to be current and in good standing, identifying the individual verifying license and registration status and the method used to verify status; and~~

~~*d.*~~ 3. Include, but not necessarily be limited to, policies and procedures for:

~~(1)~~ • Protecting the confidentiality and integrity of patient information;

~~(2)~~ • Protecting each patient's freedom of choice of pharmacy services;

~~(3)~~ • Maintaining appropriate records to identify the name, the initials or unique identification code, and the specific activities of each pharmacist or pharmacy technician who performed any centralized filling or centralized processing function; and

~~(4) Complying with federal and state laws, rules, and regulations;~~

~~(5)~~ ● Operating a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems~~; and~~.

~~(6) Reviewing, at least annually, the written policies and procedures and documenting that review.~~

ITEM 4. Amend rule 657—18.15(155A) as follows:

657—18.15(155A) Records. Central fill or central processing pharmacies shall maintain appropriate records that identify, by prescription drug order, the ~~name and~~ initials or unique identification code of each pharmacist or pharmacy technician who performs a centralized filling or centralized processing function for a prescription drug order. Originating pharmacies shall maintain appropriate records that identify, by prescription drug order, the ~~name and~~ initials or unique identification code of the pharmacist who performed drug use review ~~and the pharmacist who transmitted the prescription drug order to the central fill or central processing pharmacy~~. These records may be maintained separately by each pharmacy or in a common electronic file as long as the data processing system is capable of producing a printout that lists the functions performed by each pharmacy and pharmacist or technician and identifies the pharmacist or technician who performed each function.

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