



IOWA ADMINISTRATIVE BULLETIN

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Pages 175 to 292

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PREFACE

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

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

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

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

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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 2019

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 9, 2019	August 28, 2019
6	Wednesday, August 21, 2019	September 11, 2019
7	Friday, September 6, 2019	September 25, 2019

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, August 12, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGING, DEPARTMENT ON[17]

Definitions, 1.5 <u>Notice</u> ARC 4545C	7/17/19
Complaint and appeal procedures—inclusion of senior community service employment program (SCSEP) subgrantees, 2.9 <u>Notice</u> ARC 4542C	7/17/19
Area agencies on aging—qualifications to serve, 4.4 <u>Notice</u> ARC 4543C	7/17/19
Contracts and subgrants, 6.9(2)“c,” 6.10(4), 6.11 <u>Notice</u> ARC 4544C	7/17/19
Managed care ombudsman program, amendments to ch 8 <u>Notice</u> ARC 4547C	7/17/19
Older American community service employment program, rescind ch 10 <u>Notice</u> ARC 4546C	7/17/19
Office of substitute decision maker—change of name to office of public guardian, services provided, amendments to ch 22 <u>Notice</u> ARC 4550C	7/17/19
Aging and disability resource center, ch 23 <u>Notice</u> ARC 4548C	7/17/19

ATTORNEY GENERAL[61]

Victim assistance program, amendments to ch 9 <u>Filed</u> ARC 4571C	7/31/19
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CIVIL RIGHTS COMMISSION[161]

Assistance animal as reasonable accommodation in housing—form, ch 9 appendix A <u>Notice</u> ARC 4551C , also <u>Filed Emergency</u> ARC 4552C	7/17/19
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PUBLIC HEALTH DEPARTMENT[641]“umbrella” Sedation and nitrous oxide, ch 29 <u>Filed</u> ARC 4556C	7/17/19
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EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella” Timeline for required reporting of misconduct to the board, 11.37 <u>Notice</u> ARC 4560C	7/31/19
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HUMAN SERVICES DEPARTMENT[441]

Family investment program (FIP); electronic benefits transfer cards, 40.28, 65.4 <u>Filed</u> ARC 4573C	7/31/19
Medicaid eligibility—removal of statewide average costs and charges and maximum Medicaid rates from rule, 75.23(3), 75.24(3)“b” <u>Filed Emergency After Notice</u> ARC 4572C	7/31/19
Medicaid for employed people with disabilities program—premium amounts, 75.1(39)“b” <u>Filed</u> ARC 4574C	7/31/19
Customized wheelchairs—definition for Medicaid members and providers, amendments to ch 78 <u>Filed</u> ARC 4575C	7/31/19
Child support recovery forms, 97.6(5), 98.121, 99.63(1) <u>Filed</u> ARC 4576C	7/31/19

INSPECTIONS AND APPEALS DEPARTMENT[481]

Residential care—specialized license for three- to five-bed facilities, amendments to ch 63 <u>Filed</u> ARC 4577C	7/31/19
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INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella” Pharmacy benefits manager annual report, amendments to ch 59 <u>Filed</u> ARC 4578C	7/31/19
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LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella” Boilers and pressure vessels—inspections, incident reporting, 90.7(3), 90.11(3)“c” <u>Notice</u> ARC 4564C	7/31/19
Inspectors of boilers and pressure vessels, 90.9 <u>Notice</u> ARC 4565C	7/31/19

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State publications depository program, 3.9 <u>Notice</u> ARC 4553C	7/17/19

LOTTERY AUTHORITY, IOWA[531]

Vendor and licensing appeals, 2.17, 5.2, 5.3, 5.6, 5.7, 5.12, 5.25 to 5.27, 5.29 <u>Notice</u> ARC 4563C	7/31/19
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PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella” Pharmacist licensure; pharmacist internships, amendments to chs 2, 4, 25, 31, 32 <u>Filed</u> ARC 4579C	7/31/19
Electronic prescription mandate and exemptions, amendments to chs 8, 10, 21 <u>Filed</u> ARC 4580C	7/31/19

Authorized dispensers of pseudoephedrine products, 10.34, 100.2, 100.3	Notice	ARC 4570C	7/31/19
Licensing sanctions—student loan debt or related service obligations, rescind ch 31; amend ch 36	Filed	ARC 4581C	7/31/19
Military service and veteran reciprocity for licensing, 33.1, 33.3, 33.4	Filed	ARC 4582C	7/31/19
Statewide protocols—update of terminology, order constitutes prescription, 39.6, 39.8, 39.9, 39.11	Filed	ARC 4583C	7/31/19
Vaccine administration by pharmacists, 39.10	Filed Emergency After Notice	ARC 4555C	7/17/19

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Behavior analysts and assistant behavior analysts—licensure, fees, amendments to chs 5, 31, 33	Filed	ARC 4557C	7/17/19
Physical therapists and physical therapist assistants—licensure, examinations, 200.2, 200.4	Notice	ARC 4569C	7/31/19

PUBLIC HEALTH DEPARTMENT[641]

Elimination of specialty care referral network, governmental public health and rural health and primary care advisory councils; membership of trauma system advisory council; reimbursement of advisory council and review team expenses, amend chs 88, 90, 110, 130, 138; rescind ch 186	Notice	ARC 4539C	7/17/19
Mandatory reporter training curricula, rescind ch 93	Notice	ARC 4538C	7/17/19
Interagency coordinating council for the state medical examiner—integration of duties of advisory council for the state medical examiner, amend ch 124; rescind ch 125	Notice	ARC 4540C	7/17/19
Substance use disorder and problem gambling treatment program mandatory reporter training; substance abuse treatment programs in correctional facilities, amend ch 155; rescind ch 156	Notice	ARC 4541C	7/17/19

PUBLIC SAFETY DEPARTMENT[661]

Former peace officer replacement identification card—removal of fee, 93.3(9)	Notice	ARC 4549C	7/17/19
Military service and veteran reciprocity for fire extinguishing and alarm systems contractors and installers, ch 278	Filed	ARC 4584C	7/31/19

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Certification—qualifying experience, demonstration appraisals, supervision of associates or trainees, 1.20(2), 5.6(2), 6.6(2) 15.3(1)	Notice	ARC 4567C	7/31/19
Prohibition of discipline for student loan nonrepayment; military service credit and reciprocity; impaired licensee review committee; social security numbers and proof of legal presence; vendor appeals, amend ch 21; adopt chs 25 to 29	Notice	ARC 4566C	7/31/19

REVENUE DEPARTMENT[701]

Electronic filing of W-2 and 1099 forms—tax withheld from employees, filing deadline, 46.3(3)	Notice	ARC 4561C	7/31/19
Excise tax rate on motor fuels, 68.2(1)	Filed	ARC 4585C	7/31/19
Resale and processing exemptions—commercial enterprises, 225.8	Notice	ARC 4562C	7/31/19

TRANSPORTATION DEPARTMENT[761]

Driver licensing, amendments to chs 600, 602, 604, 605, 607	Filed	ARC 4586C	7/31/19
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Practice and procedure before the board, amendments to ch 7	Notice	ARC 4537C	7/17/19
Water, sanitary sewage, and storm water drainage utilities, amendments to ch 21	Notice	ARC 4536C	7/17/19

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa veterans home—county of residence upon discharge, 10.41	Filed	ARC 4587C	7/31/19
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WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Electronic filing, amendments to chs 2 to 5, 10, 11	Filed Emergency After Notice	ARC 4568C	7/31/19
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer innovation fund, ch 16	Filed	ARC 4558C	7/17/19
Unemployment benefits wage-earnings limitation, 24.18	Filed	ARC 4559C	7/17/19

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
109 South Summer Street
St. Ansgar, Iowa 50472

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Zach Whiting
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4470 Highway 71
Sioux Rapids, Iowa 50585

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

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

CIVIL RIGHTS COMMISSION[161]

Assistance animal as reasonable accommodation in housing—form, ch 9 appendix A IAB 7/17/19 ARC 4551C	Room B100 Grimes State Office Bldg. Des Moines, Iowa	September 13, 2019 12:30 to 1:30 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Timeline for required reporting of misconduct to the board, 11.37 IAB 7/31/19 ARC 4560C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	August 21, 2019 1 p.m.
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LABOR SERVICES DIVISION[875]

Boilers and pressure vessels—inspections, incident reporting, 90.7(3), 90.11(3)“c” IAB 7/31/19 ARC 4564C	150 Des Moines St. Des Moines, Iowa	August 20, 2019 9 a.m. (If requested)
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Inspectors of boilers and pressure vessels, 90.9 IAB 7/31/19 ARC 4565C	150 Des Moines St. Des Moines, Iowa	August 20, 2019 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Physical therapists and physical therapist assistants—licensure, examinations, 200.2, 200.4 IAB 7/31/19 ARC 4569C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 21, 2019 8 to 8:30 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Certification—qualifying experience, demonstration appraisals, supervision of associates or trainees, 1.20(2), 5.6(2), 6.6(2) 15.3(1) IAB 7/31/19 ARC 4567C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	August 20, 2019 8:30 to 9:30 a.m.
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Prohibition of discipline for student loan nonrepayment; military service credit and reciprocity; impaired licensee review committee; social security numbers and proof of legal presence; vendor appeals, amend ch 21; adopt chs 25 to 29 IAB 7/31/19 ARC 4566C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	August 20, 2019 9:30 to 10:30 a.m.
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UTILITIES DIVISION[199]

Practice and procedure before the board, amendments to ch 7 IAB 7/17/19 ARC 4537C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 20, 2019 2 to 4 p.m.
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UTILITIES DIVISION[199](cont'd)

Intrastate gas pipelines and
underground gas storage,
amendments to ch 10
IAB 6/19/19 **ARC 4506C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 1, 2019
1 to 3 p.m.

Water, sanitary sewage, and
storm water drainage utilities,
amendments to ch 21
IAB 7/17/19 **ARC 4536C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 20, 2019
11:30 a.m. to 1 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 4560C**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to required reports of misconduct and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, House File 637.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 637.

Purpose and Summary

The proposed amendment is intended to implement 2019 Iowa Acts, House File 637, which states that required reports of misconduct under Iowa Code section 272.15 shall be submitted within 30 days of the disciplinary action or awareness of misconduct that necessitated the report. The Board’s administrative rules currently have a 60-day timeline for the reporting of disqualifying criminal convictions and no required timeline for reporting of disciplinary actions based on the four behavior areas enumerated in Iowa Code section 272.15(1)“a”(1). The proposed amendment provides a clear 30-day timeline for all required reports of misconduct 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, no impact on jobs has been found.

Waivers

No waivers of the 30-day timeline are allowed because the timeline is required by statute pursuant to 2019 Iowa Acts, House File 637.

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 August 23, 2019. Comments should be directed to:

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

Public Hearing

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

August 21, 2019
1 p.m.

Room 3 Southwest
Grimes State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 282—11.37(272) as follows:

282—11.37(272) Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board any instance of disciplinary action taken against a person who holds a license, certificate, or authorization issued by the board for conduct that would constitute a violation of 282—subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b.” In addition, the board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under Iowa Code sections 279.12, 279.13, 279.15 ~~through 279.21~~, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of 282—subparagraph 25.3(1)“b”(1), subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b,” when the board or reporting official has a good-faith belief that the incident occurred or the allegation is true.

11.37(1) Method of reporting. The report required by this rule may be made by completion and filing of the complaint form described in subrule 11.4(2) or by the submission of a letter to the executive director of the board which includes:

- a. ~~the~~ The full name, address, telephone number, title and signature of the reporter;
- b. ~~the~~ The full name, address, and telephone number of the person who holds a license, certificate or authorization issued by the board;
- c. ~~a~~ A concise statement of the circumstances under which the termination, nonrenewal, or resignation occurred;
- d. The date action was taken which necessitated the report, including the date of disciplinary action taken, nonrenewal or termination of a contract for reasons of alleged or actual misconduct, or resignation of a person following an incident or allegation of misconduct as required under Iowa Code section 272.15(1), or awareness of alleged misconduct as required under Iowa Code section 272.15(2); and

e. ~~any~~ Any additional information or documentation which the reporter believes will be relevant to assessment of the report pursuant to subrule 11.37(4).

11.37(2) Timely reporting required. The report required by this rule shall be filed within ~~60~~ 30 days ~~of the date of local board action on the termination or resignation~~ of the date action was taken which

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

necessitated the report or within 30 days of an employee becoming aware of the alleged misconduct under Iowa Code section 272.15(2).

11.37(3) Confidentiality of report. Information reported to the board in accordance with this rule is privileged and confidential, and, except as provided in Iowa Code section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline.

11.37(4) Action upon receipt of report.

a. Upon receipt of a report under this rule, the executive director of the board shall review the information reported to determine whether a complaint investigation should be initiated.

b. In making this determination, the executive director shall consider the nature and seriousness of the reported misconduct in relation to the position sought or held, the time elapsed since the misconduct, the degree of rehabilitation, the likelihood that the individual will commit the same misconduct again, and the number of reported incidents of misconduct.

c. If the executive director determines a complaint should not be initiated, no further formal action will be taken and the matter will be closed.

d. If the executive director determines a complaint investigation should be initiated, the executive director shall assign the matter for investigation pursuant to rule 282—11.5(272).

11.37(5) Proceedings upon investigation. From the time of initiation of an investigation, the matter will be processed in the same manner as a complaint filed under rule 282—11.4(17A,272).

ARC 4564C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to inspections of boilers and pressure vessels and providing an opportunity for public comment

The Boiler and Pressure Vessel Board hereby proposes to amend Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

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

Purpose and Summary

Items 1 and 2 propose to rescind the current fee language and adopt new fee language for non-routine scheduling requested by the owner or user of a boiler or pressure vessel. Item 4 updates phone numbers for reporting explosions, injuries, and related incidents.

Fiscal Impact

Since requests for inspections outside the normal schedule are not common, any fiscal impact on the Boiler and Pressure Vessel Safety Fund should be minimal.

Jobs Impact

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

LABOR SERVICES DIVISION[875](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 81.

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 August 20, 2019. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

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

August 20, 2019
9 a.m.

150 Des Moines St.
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. Rescind paragraph **90.7(3)“e”** and adopt the following **new** paragraph in lieu thereof:

e. An additional fee will be charged if, upon the request of an owner or user, the labor commissioner agrees to any non-routine schedule for an inspection outside of normal business hours, a special inspection, or a site visit. The additional fee will be calculated at a rate of \$200 per hour, including travel time, with a minimum charge of \$400.

ITEM 2. Rescind paragraph **90.7(3)“f.”**

ITEM 3. Reletter paragraph **90.7(3)“g”** as **90.7(3)“f.”**

ITEM 4. Amend paragraph **90.11(3)“c”** as follows:

c. Incident reports shall be made by calling ~~(515)281-3647~~ (515)725-5609 or ~~(515)281-6533~~ (515)725-5610. If the incident occurs during normal division operating hours, notification shall occur before close of business on that day. If the incident occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

ARC 4565C**LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to inspectors of boilers and pressure vessels and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89.7.

State or Federal Law Implemented

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

Purpose and Summary

Iowa Code section 89.7 requires that a commissioned special inspector be a representative of a “reputable insurance company”; however, current rules do not address this requirement. These proposed amendments would define the phrase “reputable insurance company” and allow the Labor Commissioner to deny, revoke, or suspend a special inspector commission if the inspector does not represent an insurance company recognized by the Iowa Insurance Commissioner.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

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

LABOR SERVICES DIVISION[875](cont'd)

August 20, 2019
9 a.m.

150 Des Moines St.
Des Moines, Iowa

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

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

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. Renumber subrules **90.9(1)** to **90.9(9)** as **90.9(2)** to **90.9(10)**.

ITEM 2. Adopt the following **new** subrule 90.9(1):

90.9(1) *Definition of "reputable insurance company."* As used in this rule, "reputable insurance company" means a company recognized by the Iowa insurance division as a licensed insurer, a risk retention group, an alien surplus lines insurer, or a surplus lines insurer.

ITEM 3. Amend renumbered subrule 90.9(5) as follows:

90.9(5) *Denials.* The labor commissioner may refuse to issue or renew a special inspector's commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules ~~90.9(6)~~ 90.9(7) to ~~90.9(8)~~ 90.9(9).

ITEM 4. Amend renumbered subrule 90.9(7) as follows:

90.9(7) *Reasons for probation.* The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector does not represent a reputable insurance company or the special inspector filed inaccurate reports.

ITEM 5. Amend renumbered paragraphs **90.9(8)**"f," "i" and "j" as follows:

f. The special inspector committed numerous violations as described in subrule ~~90.9(6)~~ 90.9(7);
i. The division received a certificate of noncompliance; ~~or~~
j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs "a" to "h" of this subrule;
or

ITEM 6. Adopt the following **new** paragraph **90.9(8)**"k":

k. The special inspector does not represent a reputable insurance company.

ITEM 7. Amend renumbered paragraphs **90.9(9)**"e," "h" and "i" as follows:

e. The special inspector committed repeated violations as described in subrule ~~90.9(7)~~ 90.9(8);
h. The National Board revoked or suspended the special inspector's work card; ~~or~~
i. The division received a certificate of noncompliance; or

ITEM 8. Adopt the following **new** paragraph **90.9(9)**"j":

j. The special inspector does not represent a reputable insurance company.

ARC 4563C**LOTTERY AUTHORITY, IOWA[531]****Notice of Intended Action****Proposing rule making related to appeals and providing an opportunity for public comment**

The Board of Directors of the Iowa Lottery Authority hereby proposes to amend Chapter 2, "Purchasing," and Chapter 5, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 99G.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 99G.

Purpose and Summary

These proposed amendments update the Lottery's processes on the receipt and review of administrative appeals. These amendments provide structure for vendor appeals and remove from licensing appeals the concept of the Lottery "hearing board" appointed by various Lottery officials. Rather, for both types of appeals, the Lottery's chief executive officer will elect either to preside over the hearing or to appoint an administrative law judge from the Administrative Hearings Division of the Iowa Department of Inspections and Appeals to serve as presiding officer and issue a proposed ruling. All appeals from proposed decisions are submitted to the Lottery's chief executive officer, who issues the final decision on behalf of the agency.

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.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

Rob Porter
Vice President/General Counsel
Iowa Lottery Authority
13001 University Avenue
Clive, Iowa 50325-8225
Phone: 515.725.7851
Email: rkporter@ialottery.com

LOTTERY AUTHORITY, IOWA[531](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind rule 531—2.17(99G) and adopt the following **new** rule in lieu thereof:

531—2.17(99G) Vendor appeals.

2.17(1) Filing vendor appeal. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the lottery may file a written notice of appeal of the procurement decision with the Iowa Lottery, 13001 University Avenue, Clive, Iowa 50325-8225, within five business days of the date of the award. The notice of appeal must actually be received at this address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the lottery’s award.

2.17(2) Presiding officer. Upon receipt of a notice of a vendor appeal, the chief executive officer shall hear and render a ruling on the vendor appeal. At the election of the chief executive officer, the vendor appeal may be heard by an administrative law judge within the administrative hearings division of the department of inspections and appeals, who would then issue a proposed ruling that the chief executive officer may hear on appeal.

2.17(3) Hearing. Where feasible, vendor appeals shall be conducted in accordance with 531—Chapter 5. In the case of conflict, the rules and procedures set forth in Chapter 2 control for vendor appeals submitted to the lottery. The presiding officer shall send a written notice of the date, time and location of the appeal hearing to the aggrieved vendor or vendors. The presiding officer shall hold a hearing on the vendor appeal within 60 days of the date the notice of appeal was received by the lottery, except that the administrative law judge has the ability to extend this duration where the administrative law judge determines good cause necessitates an extension.

2.17(4) Discovery. The parties shall serve any discovery requests upon the other parties at least 30 days prior to the date set for hearing. The parties must serve responses to discovery at least 20 days prior to the date set for the hearing.

2.17(5) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the time set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

2.17(6) Contents of decision. The administrative law judge shall issue and serve upon all parties a written proposed decision that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the appeal and shall conform with the requirements of Iowa Code chapters 17A and 99G.

2.17(7) Status of ruling. If the chief executive officer presides over the entry of evidence in the vendor appeal, the decision is the final decision of the lottery pursuant to Iowa Code section 17A.15(1) and may be further appealed in accordance with Iowa Code section 17A.19. The ruling of any other presiding officer constitutes a proposed ruling which may be appealed to the lottery’s chief executive officer. The written decision of the chief executive officer on a vendor appeal constitutes a final decision of the lottery, which may be further appealed in accordance with Iowa Code section 17A.19.

LOTTERY AUTHORITY, IOWA[531](cont'd)

2.17(8) Stay of agency action for vendor appeal.

a. Any party appealing the issuance of a notice of intent to award a contract may petition the presiding officer for a stay of the award pending its review. The petition for stay shall be filed with the notice of appeal and shall state the reasons justifying a stay. Any decision issued by a presiding officer regarding a stay may be appealed to the chief executive officer.

b. Any party adversely affected by a final decision and order may petition the chief executive officer for a stay of the agency decision and order pending judicial review. The petition for stay shall be filed with the chief executive officer within ten days of receipt of the final decision and order and shall state the reasons justifying a stay.

c. The presiding officer or chief executive officer may grant a stay upon a conclusion that the movant has satisfied the standards for the grant of a stay included in rule 531—5.29(17A) and Iowa Code section 17A.19(5).

This rule is intended to implement Iowa Code sections 99G.9, 99G.21, 99G.23, and 99G.37.

ITEM 2. Amend rule 531—5.2(17A) as follows:

531—5.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code ~~subsection~~ section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

~~“*Hearing board*” means the board designated to resolve license disputes pursuant to Iowa Code Supplement section 99G.27(3) and these rules.~~

“*Issuance*” means the date of mailing or otherwise electronically providing a copy of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the chief executive officer of the lottery, or the administrative law judge within the administrative hearings division of the department of inspections and appeals who is appointed by the chief executive officer of the lottery to issue a proposed ruling.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the ~~hearing board~~ chief executive officer of the lottery did not preside.

ITEM 3. Rescind and reserve rule **531—5.3(17A)**.

ITEM 4. Amend rule 531—5.6(17A) as follows:

531—5.6(17A) Notice of hearing.

5.6(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal or electronic service as ~~provided~~ permitted in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

5.6(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the lottery or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the lottery or the state and of parties’ counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding; and
- g. ~~Reference to the procedural rules governing informal settlement;~~

LOTTERY AUTHORITY, IOWA[531](cont'd)

~~h. g.~~ Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer (e.g., ~~the hearing board, the chief executive officer of the lottery, members of the lottery authority board, administrative law judge from the department of inspections and appeals~~); and.

~~i.~~ Notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11(1) and rule 531—5.6(17A), that the presiding officer be an administrative law judge.

ITEM 5. Rescind paragraph **5.7(2)“h.”**

ITEM 6. Amend subrule 5.7(5) as follows:

5.7(5) Unless otherwise provided by law, the chief executive officer or a designee, ~~and members of the lottery authority board~~, when reviewing a proposed decision upon appeal to the lottery, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

ITEM 7. Amend subrule 5.12(2) as follows:

5.12(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address or by electronic service as permitted by the presiding officer and the Iowa Rules of Civil Procedure. Service by paper or electronic mail is complete upon mailing, except where otherwise specifically provided by statute, rule or order.

ITEM 8. Amend subrule 5.12(3) as follows:

5.12(3) Filing—when required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the ~~Office of the Chief Executive Officer, Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225~~ presiding officer. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously ~~in the office of the chief executive officer~~ with the presiding officer.

ITEM 9. Amend subrule 5.12(4) as follows:

5.12(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the ~~chief executive officer's office~~ presiding officer, delivered to an established courier service for immediate delivery to ~~that office~~ the presiding officer, delivered via electronic mail or fax, or mailed by first-class mail or state interoffice mail to ~~that office~~ the presiding officer, so long as there is proof of mailing.

ITEM 10. Amend rule 531—5.25(17A) as follows:

531—5.25(17A) Interlocutory appeals. Upon written request of a party or ~~on its own motion sua sponte~~, the ~~hearing board~~ chief executive officer may review an interlocutory order of the presiding officer. In determining whether to do so, the ~~hearing board~~ chief executive officer shall weigh the extent to which ~~its~~ the chief executive officer's granting of the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

ITEM 11. Amend rule 531—5.26(17A) as follows:

531—5.26(17A) Final decision.

5.26(1) When the ~~hearing board~~ chief executive officer presides over the reception of evidence at the hearing, ~~its~~ the chief executive officer's decision is a final decision.

5.26(2) When the ~~hearing board~~ chief executive officer does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the ~~hearing board~~ chief executive officer within the time provided in rule 531—5.27(17A).

LOTTERY AUTHORITY, IOWA[531](cont'd)

ITEM 12. Amend rule 531—5.27(17A) as follows:

531—5.27(17A) Appeals and review.

5.27(1) Appeal by party. Any adversely affected party may appeal a proposed decision to the ~~hearing board~~ chief executive officer of the lottery within 30 days after issuance of the proposed decision.

5.27(2) Review. The ~~hearing board~~ chief executive officer may initiate review of a proposed decision on ~~its~~ the chief executive officer's own motion at any time within 30 days following the issuance of such a decision.

5.27(3) Notice of appeal. An appeal of a proposed decision is initiated by filing a timely notice of appeal with the Iowa lottery. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

5.27(4) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a non-appealing party, within 14 days of service of the notice of appeal. The ~~hearing board~~ chief executive officer may remand a case to the presiding officer for further hearing or may ~~itself~~ personally preside at the taking of additional evidence.

5.27(5) Scheduling. The ~~presiding officer~~ chief executive officer shall issue a schedule for consideration of the appeal.

5.27(6) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The ~~hearing board~~ chief executive officer may resolve the appeal on the briefs or provide an opportunity for oral argument. The ~~hearing board~~ chief executive officer may shorten or extend the briefing period as appropriate.

ITEM 13. Amend rule 531—5.29(17A) as follows:

531—5.29(17A) Stays of agency actions.

5.29(1) When available.

a. Any party to a contested case proceeding may petition the lottery for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The ~~hearing board~~ chief executive officer of the lottery may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the lottery for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

5.29(2) When granted. In determining whether to grant a stay, the chief executive officer or presiding officer ~~or hearing board~~ shall consider the factors listed in Iowa Code section 17A.19(5).

5.29(3) Vacation. A stay may be vacated by the issuing authority upon application of the lottery or any other party.

ARC 4570C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to authorized dispensers of pseudoephedrine products and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, “Controlled Substances,” and Chapter 100, “Iowa Real-Time Electronic Pseudoephedrine Tracking System,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.212B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.212B.

Purpose and Summary

The proposed amendments, developed with the approval of the Governor’s Office of Drug Control Policy, identify all registered pharmacy employees as authorized dispensers of pseudoephedrine products.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 20, 2019. 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.

PHARMACY BOARD[657](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 657—10.34(124) as follows:

657—10.34(124) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. A product containing ephedrine, pseudoephedrine, or phenylpropanolamine, which substance is a Schedule V controlled substance and is not listed in another controlled substance schedule, may be dispensed or administered without a prescription by a ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ an authorized dispenser pursuant to 657—Chapter 100 to a purchaser at retail pursuant to the conditions of this rule.

10.34(1) Who may dispense. Dispensing shall be by a ~~licensed Iowa pharmacist, by a registered pharmacist intern under the direct supervision of a pharmacist preceptor, or by a registered certified pharmacy technician under the direct supervision of a pharmacist, except as authorized in an authorized dispenser pursuant to 657—Chapter 100.~~ This subrule does not prohibit, after the ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by another pharmacy employee.

10.34(2) to 10.34(4) No change.

10.34(5) Identification. The ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser shall require every purchaser under this rule to present a current government-issued photo identification, including proof of age when appropriate. The ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser shall be responsible for verifying that the name on the identification matches the name provided by the purchaser and that the photo image depicts the purchaser.

10.34(6) Record. Purchase records shall be recorded in the real-time electronic pseudoephedrine tracking system (PTS) established and administered by the governor's office of drug control policy pursuant to 657—Chapter 100. If the PTS is unavailable for use, the purchase record shall be recorded in an alternate format and submitted to the PTS as provided in 657—subrule 100.3(4).

a. Alternate record contents. The alternate record shall contain the following:

(1) to (3) No change.

(4) The name or unique identification of the ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser who approved the dispensing of the product.

b. and c. No change.

10.34(7) No change.

ITEM 2. Amend rule ~~657—100.2(124)~~, definition of "Dispenser," as follows:

"*Dispenser*" means a licensed Iowa pharmacist, a registered pharmacist-intern under the direct supervision of a pharmacist preceptor, ~~or a registered pharmacy technician under the direct supervision of a pharmacist, except as authorized in 657—Chapter 13,~~ or a registered pharmacy support person under the direct supervision of a pharmacist.

ITEM 3. Amend rule 657—100.3(124) as follows:

657—100.3(124) Electronic pseudoephedrine tracking system (PTS). Unless granted an exemption by the office pursuant to these rules, all pharmacies dispensing products as defined in rule 657—100.2(124) without a prescription are required to participate in the PTS pursuant to Iowa Code section 124.212B.

PHARMACY BOARD[657](cont'd)

100.3(1) Reporting elements. The record of a completed purchase or attempted purchase of a product without a prescription shall contain the following:

a. to e. No change.

f. The name or unique identification of the ~~pharmacist, pharmacist intern, or pharmacy technician~~ dispenser who approved the dispensing of the product.

100.3(2) No change.

100.3(3) Denial of transactions and overrides.

a. No change.

b. The PTS shall provide an override feature for use by a dispenser to allow completion of the sale. ~~For security purposes and to ensure the integrity of the PTS, use of the override feature shall be restricted to authorized dispensers and may not be delegated to a pharmacy technician trainee or a pharmacy support person.~~ A dispenser utilizing the override feature shall document the reason that, in the professional judgment of the dispenser, it is necessary to override the recommendation of the PTS to deny the transaction.

100.3(4) No change.

ARC 4569C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to physical therapy licensure and examination and providing an opportunity for public comment

The Board of Physical and Occupational Therapy hereby proposes to amend Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and chapter 148A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 147C, and 148A.

Purpose and Summary

The proposed amendments update numerous approval processes for testing eligibility to make it feasible for the Board to participate in the Federation of State Boards of Physical Therapy’s Alternative Approval Pathway initiative. These amendments include updates to the procedure for requesting special accommodations as well as clarification and score updates for foreign-trained applicants.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 21, 2019. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

August 21, 2019
8 to 8:30 a.m.

Fifth Floor Conference Room 526
Lucas State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind subrule **200.2(6)**.

ITEM 2. Renumber subrules **200.2(7)** to **200.2(9)** as **200.2(6)** to **200.2(8)**.

ITEM 3. Amend subrule 200.4(3) as follows:

200.4(3) ~~Before the board may approve an applicant for testing beyond three attempts, an applicant shall demonstrate evidence satisfactory to the board of having successfully completed additional coursework.~~ The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

ITEM 4. Rescind subrule **200.4(4)**.

ITEM 5. Renumber subrule **200.4(5)** as **200.4(4)**.

ITEM 6. Amend renumbered subrule 200.4(4) as follows:

200.4(4) Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation. The applicant must submit appropriate documentation to FSBPT.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~a.—Disability requirements. An applicant is an individual who has a physical or mental impairment that substantially limits that individual in one or more major life activities, who has a record of such a physical or mental disability, or who is regarded as having such a physical or mental impairment.~~

~~(1) Physical impairment, as defined by the ADA, means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.~~

~~(2) Mental impairment, as defined by the ADA, means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~b.—To be considered an impairment that limits a major life activity, the disability shall impair an activity that an average person can perform with little or no difficulty, for example, walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, or reading.~~

~~c.—To verify the accommodation, the applicant must submit appropriate documentation that uses professionally recognized criteria; that details how the disability leads to functional limitations; and that illustrates how the limitation or limitations inhibit the individual from performing one or more major life activities.~~

~~d.—An evaluator shall on the documentation provide a signature, verify the diagnosis, verify the professionally recognized test/assessment, and recommend the accommodation. The evaluator shall be a licensed health care professional, including but not limited to a physician who practices in a field that includes, but may not be limited to, neurology, family practice, orthopedics, physical medical medicine and rehabilitation, and psychiatry; or a psychologist who performs evaluations to assess individuals for mental disorders that might impact those individuals' academic or testing performance.~~

~~e.—An accommodation shall not give the individual an unfair advantage over others taking the examination, shall not change the purpose of the examination, and shall not guarantee that the individual will pass the examination.~~

~~f.—The board and staff shall maintain confidentiality of all medical and diagnostic information and records.~~

ITEM 7. Amend subrule 200.5(2) as follows:

200.5(2) Foreign-trained applicants who do not hold a license in another state or U.S. territory shall:

a. Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; website www.fcpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant who does not hold a license in another state or territory of the United States and is applying for licensure by taking the examination should be evaluated using the most current version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT). The credentials of a foreign-educated physical therapist or physical therapist assistant who has been a licensed PT or PTA under the laws of another jurisdiction should be evaluated using the version of the FSBPT CWT that covers the date the applicant graduated from the applicant's respective physical therapist or physical therapist assistant education program. The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

b. Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language (IBT-TOEFL) Internet-based test (TOEFL iBT test) a total score of at least 89 on the Internet-based TOEFL TOEFL iBT test as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension. Beginning January 1, 2020, submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language Internet-based test (TOEFL iBT test) a total score of at least 89 on the TOEFL iBT test as well as accompanying minimum

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

scores in the four test components as follows: 22 in writing; 24 in speaking; 22 in reading; and 21 in listening. This ~~examination~~ test is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the ~~TOEFL examination~~ TOEFL iBT test. Applicants may be exempt from the ~~TOEFL examination~~ TOEFL iBT test when ~~the native language is English~~, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), language of instruction in physical therapy was English, language of the textbooks was English, and the applicant's transcript was in English.

~~c. Submit an official statement from each country's or territory's board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed. Foreign-trained applicants who hold a license in another state or U.S. territory may apply for licensure by endorsement.~~

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

ITEM 8. Amend subrule 200.7(1) as follows:

200.7(1) An applicant who has been a licensed PT or PTA under the laws of another ~~jurisdiction~~ state or U.S. territory shall file an application for licensure by endorsement with the board office. ~~The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who by completing the following steps:~~

- ~~a. Submits~~ Submit to the board a completed application;
- ~~b. Pays~~ Pay the licensure fee;
- ~~c. Shows~~ Show evidence of licensure requirements that are similar to those required in Iowa;
- ~~d. Submits~~ Submit a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;
- ~~e. Submits~~ Submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant;
- ~~f. Provides~~ Provide official copies of the academic transcripts sent directly from the school to the board; and
- ~~g. Provides~~ Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - (1) Licensee's name;
 - (2) Date of initial licensure;
 - (3) Current licensure status; and
 - (4) Any disciplinary action taken against the license.

ITEM 9. Rescind subrule **200.7(6)**.

ARC 4567C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

Proposing rule making related to appraiser qualification criteria and providing an opportunity for public comment

The Real Estate Appraiser Examining Board hereby proposes to amend Chapter 1, "Organization and Administration," Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," and Chapter 15, "Supervisor Responsibilities," Iowa Administrative Code.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 543D.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

The Real Estate Appraiser Examining Board adopted the Appraisal Foundation's Appraiser Qualifications Board 2018 Real Property Appraiser Qualification Criteria (AQB 2018 Real Property Criteria) on January 9, 2019, through **ARC 4006C** and **ARC 4169C**. **ARC 4006C** and **ARC 4169C** neglected to amend Chapter 1, which references the minimum required experience hours and length of time to gain the experience hours. These amendments aim to fix the inaccurate statements based on the previously adopted rules. The amendments also seek to amend the language to be in compliance with minimum standards of the AQB 2018 Real Property Criteria. The AQB 2018 Real Property Criteria updated the minimum requirements necessary to become an appraiser or act as a supervisory appraiser. The AQB 2018 Real Property Criteria reduced the minimum number of required hours of qualifying experience from 2,500 hours to 1,500 hours for residential appraisers. The criteria also reduced the time frame in which experience must be gained from 24 months to 12 months for certified residential appraisers and from 30 months to 18 months for certified general appraisers. Other changes made within the AQB 2018 Real Property Criteria include lower requirements for collegiate experience for certified residential appraisers. The cap on demonstration reports and the limit related to supervision of associates or trainees were required by the 2018 Real Property Criteria and previous version, but were never explicitly stated in the Board's rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

Brandy March
Real Estate Appraiser Examining Board
East Grand Office Park
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Phone: 515.725.9025
Email: brandy.march@iowa.gov

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Public Hearing

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

August 20, 2019
8:30 to 9:30 a.m.

Small Conference Room, Third Floor
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 1.20(2) as follows:

1.20(2) Summary of certification requirements. As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, ~~2,500~~ 1,500 hours of qualifying experience in a minimum of ~~24~~ 12 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of ~~30~~ 18 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

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

5.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals. Experience gained for work without a traditional client (i.e., a client hiring an appraiser for a business purpose), for example a demonstration appraisal, cannot exceed 50 percent of the total experience requirement.

ITEM 3. Amend subrule 6.6(2) as follows:

6.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals. Experience gained for work without a traditional client (i.e., a client hiring an appraiser for a business purpose), for example a demonstration appraisal, cannot exceed 50 percent of the total experience requirement.

ITEM 4. Amend subrule 15.3(1) as follows:

15.3(1) A supervisory appraiser shall:

a. No change.

b. Have a maximum of three associates or trainees, regardless of the jurisdiction in which the associate or trainee is registered or performs appraisal services, and shall register with the board the name, office address and starting date of each associate, as well as any termination dates (voluntary or involuntary).

c. to e. No change.

ARC 4566C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

Proposing rule making related to licensure, discipline, and appeals and providing an opportunity for public comment

The Real Estate Appraiser Examining Board hereby proposes to amend Chapter 21, “Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support, Student Loan, or State Debt,” and Chapter 25, “Public Records and Fair Information Practices,” and to adopt new Chapter 26, “Military Service, Veteran Reciprocity, and Spouses of Active Duty Military Service Members,” Chapter 27, “Impaired Licensee Review Committee and Impaired Licensee Recovery Program,” Chapter 28, “Social Security Numbers and Proof of Legal Presence,” and Chapter 29, “Vendor Appeals,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 543D.5 and 543D.23.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D; 2019 Iowa Acts, House File 288; and 2019 Iowa Acts, Senate File 304.

Purpose and Summary

These amendments and new chapters implement changes required by 2019 Iowa Acts, House File 288, providing for expedited licensure for spouses of active duty members of the military forces of the United States, and 2019 Iowa Acts, Senate File 304, prohibiting the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. Additionally, these amendments and new chapters continue efforts to ensure the Board’s rules adequately reflect the Board’s recent relocation from the Professional Licensing and Regulation Bureau to the Division of Banking by incorporating additional standard agency and licensing board chapters.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

Brandy March
Real Estate Appraiser Examining Board
East Grand Office Park
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Phone: 515.725.9025
Email: brandy.march@iowa.gov

Public Hearing

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

August 20, 2019
9:30 to 10:30 a.m.

Small Conference Room, Third Floor
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 **193F—Chapter 21**, title, as follows:
DENIAL OF ISSUANCE OR RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE FOR
NONPAYMENT OF CHILD SUPPORT, ~~STUDENT LOAN~~, OR STATE DEBT

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 2. Rescind rule 193F—21.2(261) and adopt the following **new** rule in lieu thereof:

193F—21.2(272C) Prohibited grounds for discipline. The board shall not suspend or revoke a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ITEM 3. Amend **193F—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 252J, 272C, and 272D ~~and sections 261.126 and 261.127.~~

ITEM 4. Amend subrule 25.8(4) as follows:

25.8(4) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services, ~~and the centralized collection unit of the department of revenue for state debt, and college student aid commission~~ for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code chapters 252J and 272D ~~and sections 261.126 and 261.127.~~

ITEM 5. Amend **193F—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 22, 252J and ~~261~~ 272C.

ITEM 6. Adopt the following **new** 193F—Chapter 26:

CHAPTER 26

MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY MILITARY SERVICE MEMBERS

193F—26.1(272C) Definitions.

“*License*” or “*licensure*” means any certification or registration that may be granted by the board.

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

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

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

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

193F—26.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

26.2(1) The application may be submitted with an application for licensure or examination or prior to an applicant’s applying for licensure or to take an examination. No fee is required for submission of an application for military service credit.

26.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

26.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

26.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

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26.2(5) The board shall grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

26.2(6) The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

26.2(7) A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193F—Chapter 20 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

26.2(8) The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

193F—26.3(272C) Veteran and spouse of active duty military service member reciprocity.

26.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this rule shall be given priority and shall be expedited.

26.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or spouse of an active duty member of the military forces of the United States.

26.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure. Generally, given federal mandates, the requirements to become certified as a real estate appraiser are substantially the same nationwide.

26.3(4) The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

26.3(5) If the board determines that the licensing requirements in the jurisdiction in which the applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

26.3(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193F—Chapter 20 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement Iowa Code chapters 543D and 272C and 2019 Iowa Acts, House File 288.

ITEM 7. Adopt the following **new** 193F—Chapter 27:

CHAPTER 27
IMPAIRED LICENSEE REVIEW COMMITTEE
AND IMPAIRED LICENSEE RECOVERY PROGRAM

193F—27.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1)“*k*,” the board may establish an impaired licensee review committee.

27.1(1) Definitions. The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

“*Committee*” means the impaired licensee review committee.

“*Contract*” means the written document establishing the terms for participation in the impaired licensee recovery program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“*Licensee*” means a registered associate or certified real property appraiser.

“*Self-report*” means the licensee's providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board's receiving a complaint or report alleging the same from a second party.

27.1(2) Purpose. The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments or who are referred to the committee by the board.

27.1(3) Composition of the committee. The chairperson of the board shall appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

a. One licensee member who is a certified real property appraiser with the board;

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- b. One public member of the board;
- c. One or more licensed professionals with expertise in substance abuse/addiction treatment programs or other similar impairment-related treatment programs.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of commerce, if deemed in the best interest of the licensee or the public.

27.1(4) Eligibility. To be eligible for participation in the impaired licensee recovery program, a licensee must meet all of the following criteria:

- a. The licensee must self-report an impairment or suspected impairment directly to the office of the board or be referred to the committee by the board;
- b. The licensee must not have engaged in the unlawful diversion or distribution of controlled substances or illegal substances;
- c. At the time of the self-report, the licensee must not already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession, although the existence of such an order shall not prevent the board from making a referral when deemed in the best interest of the licensee and the public;
- d. The licensee must not have caused harm or injury to a client;
- e. The licensee must not have been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;
- f. The licensee must have provided truthful information and fully cooperated with the board or committee.

27.1(5) Meetings. The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

27.1(6) Terms of participation. A licensee shall agree to comply with the terms for participation in the impaired licensee recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

27.1(7) Noncompliance. Failure to comply with the provisions of the agreement shall require the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

27.1(8) Practice restrictions. The committee may impose restrictions on the licensee's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

27.1(9) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or fail to successfully complete the impaired licensee recovery program. Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

27.1(10) Confidentiality. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the impaired licensee recovery program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

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ITEM 8. Adopt the following **new** 193F—Chapter 28:

CHAPTER 28
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

193F—28.1(543D) Purpose. This chapter outlines a uniform process for applicants and licensees to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621). This chapter also addresses the requirement that a license applicant provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for purposes including the collection of child support obligations and debts owed to the state of Iowa.

193F—28.2(543D) Applicability.

28.2(1) Applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal. If requested, submission of evidence will be required once.

28.2(2) Applicants and licensees residing in the United States other than those described in subrule 28.2(1) above may be requested to provide evidence of lawful presence in the United States at the time of initial licensure and with every subsequent renewal.

28.2(3) Evidence shall not be required by foreign national applicants or licensees who are not physically present in the United States.

193F—28.3(543D) Acceptable evidence. The board shall accept as proof of lawful presence in the United States documents generally considered acceptable documentation for purposes of establishing a U.S. place of birth, indicating U.S. citizenship, or establishing alien status. The board will not routinely retain the evidence sent and will not return the evidence once submitted. Documents may be retained in computer “imaged” format. Legible copies will be accepted. Original documents will not be required unless a question arises concerning the documentation submitted.

193F—28.4(252J,261,272D,543D) Social security number disclosure.

28.4(1) An individual applying for a license from the board shall disclose the individual’s social security number on the application form unless:

a. The applicant demonstrates to the satisfaction of the board that the applicant does not possess and is not eligible for a social security number, or

b. The applicant demonstrates or attests that the applicant is in the process of applying for a social security number and will provide such number within 60 days of the date on which the applicant submits the application to the board. The license of an applicant who is licensed pursuant to this subrule may be revoked for failure to provide a valid social security number within 60 days of the date on which the application was filed.

28.4(2) An applicant who does not possess a social security number and is not eligible for a social security number will be required to demonstrate lawful presence in the United States, if applicable, and provide government-issued photo identification as needed to verify identity. If circumstances change and the applicant or licensee later attains a social security number, the applicant or licensee shall disclose the social security number to the board within 30 days of the date on which the social security number is issued.

These rules are intended to implement Iowa Code chapter 543D.

ITEM 9. Adopt the following **new** 193F—Chapter 29:

CHAPTER 29
VENDOR APPEALS

193F—29.1(543D) Purpose. This chapter outlines a uniform process for vendor appeals. The process

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shall be applicable only when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

193F—29.2(543D) Vendor appeals. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the board may appeal by filing a written notice of appeal with the board within five days of the date of the award, exclusive of Saturdays, Sundays, and legal state holidays. A written notice may be filed by email. The notice of appeal must be received by the board within the time frame specified to be considered timely. The notice of appeal must state the vendor's complete legal name, street address, telephone number, email address and the specific grounds upon which the vendor challenges the board's award, including legal authority, if any. The notice of appeal commences a contested case.

193F—29.3(543D) Procedures for vendor appeals. The board's chapter governing contested cases shall be applicable, except as otherwise provided in these rules.

29.3(1) Upon receipt of a notice of vendor appeal, the board shall issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing shall be sent to the email address provided by the appellant unless the appellant specifically requests that notice be mailed or sent by certified mail. Hearing shall be held within 60 days of the date the notice of appeal was received by the board.

29.3(2) All hearings shall be open to the public.

29.3(3) Discovery requests, if any, must be served by the parties within ten days of the filing of the notice of appeal. Discovery responses or objections are due at least seven business days prior to hearing.

29.3(4) At least three business days prior to the hearing, the parties shall exchange witness and exhibit lists. The parties shall be limited at hearing to the witnesses and exhibits timely disclosed unless the board finds good cause to allow additional witnesses or exhibits at hearing.

29.3(5) The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or on the Iowa communications network. When the hearing is not conducted in person, all exhibits must be delivered to the board or administrative law judge no less than two business days prior to the hearing.

29.3(6) Oral proceedings shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand shall bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters shall be paid for by the requester.

29.3(7) Any party appealing the issuance of a notice of award may petition for stay of the award pending the appeal's review. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay. The filing of the petition for stay does not automatically stay the award. The board may grant a stay when it concludes that substantial legal or factual questions exist as to the propriety of the award, the party will suffer substantial and irreparable injury without the stay, and the interest of the public or licensees will not be significantly harmed. A stay may be vacated at any time upon application by any party or the board on its own motion with prior notice to all parties.

29.3(8) The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6) and any other relevant procedural documents regardless of their form.

29.3(9) The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

29.3(10) Any request for continuance must be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

29.3(11) Requests for rehearing shall be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, when new evidence is available, when an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

29.3(12) The board's final decision may be reviewed by or appealed to the superintendent within 20 days of the board's decision in accordance with 193F—subrule 17.2(3). Appealing the board's final

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decision to the superintendent is a prerequisite to seeking judicial review, and failure to do so shall constitute a failure to exhaust administrative remedies and preclude judicial review. Following such intra-agency appeal, judicial review may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

193F—29.4(543D) Procedures for board referral to an administrative law judge. The board, in its discretion, may refer a vendor appeal to the department of inspections and appeals for hearing before a qualified administrative law judge. The hearing procedures set forth in rule 193F—29.3(543D) and the board's rules governing contested cases shall be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer shall constitute a proposed decision. Board review of a proposed decision shall be according to Iowa Code section 17A.15(2) and this chapter and shall be subsequently appealable to the superintendent for purposes of interagency appeal and exhaustion. Nothing in this rule shall prevent the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure.

29.4(1) The proposed decision shall become the final decision of the board 14 days after mailing of the proposed decision, unless prior to that time a party submits an appeal of the proposed decision or the board seeks review on its own motion.

29.4(2) Notice of an appeal for review of a proposed decision or notice of the board's own review shall be mailed to all parties by the board's executive officer. Within 14 days after mailing of the notice of appeal or the board's review, any party may submit to the board exceptions to and a brief in support of or in opposition to the proposed decision, copies of which shall be mailed by the submitting party to all other parties to the proceeding. The board's executive officer shall notify the parties if oral argument will be heard and shall specify whether oral argument will be heard in person, by telephone or on the Iowa communications network. The executive officer shall schedule the board's review of the proposed decision not less than 30 days after mailing of the notice of appeal or the board's own review.

29.4(3) Failure to appeal a proposed decision will constitute a failure to exhaust administrative remedies and preclude judicial review.

29.4(4) Review of a proposed decision shall be based on the record and limited to the issues raised in the hearing. The issues shall be specified in the notice of appeal of a proposed decision. The party requesting the review shall be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

29.4(5) Each party shall have the opportunity to file exceptions and present briefs. The executive officer may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the executive officer shall notify all parties of the date, time and location at least ten days in advance.

29.4(6) The board shall not receive any additional evidence unless the board grants an application to present additional evidence. Any such application must be filed by a party no fewer than five business days in advance of oral argument. Additional evidence shall be allowed only upon a showing that the evidence is material to the outcome and that there were good reasons for failure to present the evidence at hearing. If an application to present additional evidence is granted, the board shall order the conditions under which the evidence shall be presented.

29.4(7) The board's final decision shall be in writing and may incorporate all or part of the proposed decision.

193F—29.5(543D) Procedures for review by superintendent in first instance. The board or superintendent may elect to have the superintendent serve as the final decision maker in the first instance or review a proposed decision of an administrative law judge as the final decision maker. In either case, the procedures set forth in this chapter shall be substantially the same, but further review by the superintendent shall not be required to exhaust administrative remedies or as a prerequisite to judicial review.

These rules are intended to implement Iowa Code section 543D.23.

ARC 4561C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to filing electronic forms and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 46, “Withholding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 422.16 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.16.

Purpose and Summary

In 2016, pursuant to **ARC 2739C**, the Department implemented new filing requirements for W-2 and 1099 forms. The adopted rules phased in the new filing requirements over two years. For tax year 2016, only withholding agents with at least 50 employees were required to electronically file W-2 forms. For tax year 2017, all withholding agents were required to electronically file W-2 and 1099 forms. To allow additional time to implement these new requirements, the Department extended the phase-in for one year, pursuant to **ARC 3429C**, in late 2017.

Based on the challenges many withholding agents experienced during the 2018 filing season, the Department is proposing to amend its rules to require that agents only need to file forms for employees from whom tax was withheld. The Department is also proposing to move the relevant filing deadline from January 31 annually to February 15 annually. Since January 31 is a filing deadline for a variety of other forms and claims, moving this deadline should improve the Department’s ability to respond to withholding agents who contact the Department for assistance.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

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Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend paragraphs **46.3(3)“d”** to **“g”** as follows:

d. Reports for employee.

(1) General rule. Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; the total amount deducted and withheld as tax under subrule 46.1(1).

(2) Form of statement. The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as “combined W-2.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for four years from the end of the year for which the combined W-2 applies.

(3) Time for furnishing statement. Each statement required by paragraph “d” to be furnished for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before ~~January 31~~ February 15 of the year succeeding such calendar year, or if an employee’s employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee. See paragraph 46.3(3)“e” for provisions relating to the filing of copies of the combined W-2 with the department of revenue.

(4) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked “corrected by the employer.” See paragraph 46.3(3)“e” for provisions relating to the filing of a corrected combined W-2 with the department.

(5) Undelivered combined W-2. Any employee’s copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee shall be transmitted to the department with a letter of explanation.

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(6) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish a substitute copy to the employee. The copy shall be clearly marked "Reissued by Employer."

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue on or before ~~the last day of January~~ February 15 following the tax year an annual Verified Summary of Payments Report (VSP).

The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental jobs credits, accelerated career education credits and housing assistance credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.

If the Iowa income tax shown as withheld on the W-2s and 1099s issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.

(2) For Verified Summary of Payments Report forms filed with the department of revenue for the year 2000 through the year 2016, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2013, the request is valid if the request is postmarked, faxed or made on or before December 31, 2016.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

f. W-2 forms.

~~(1) Beginning in 2017 for tax years 2016 and 2017, withholding agents with at least 50 employees are required to electronically file W-2 forms with the department of revenue on or before the last day of January following the tax year. Withholding agents with fewer than 50 employees may, but are not required to, electronically file W-2 forms with the department of revenue on or before the last day of January following the tax year.~~

~~(2) (1) Beginning in 2019 for~~ For tax year 2018 2019 and all subsequent tax years, all withholding agents are required to electronically file W-2 forms for employees from whom tax was withheld with the department of revenue on or before ~~the last day of January~~ February 15 following the tax year.

~~(3) (2)~~ The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

~~(4) (3)~~ Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

g. 1099 forms and W-2G forms.

~~(1) Beginning in 2017 for tax years 2016 and 2017, withholding agents with at least fifty 1099 forms and W-2G forms may file 1099 forms and W-2G forms with the department of revenue on or before the last day of January following the tax year.~~

~~(2) (1)~~ Beginning in 2019 for For tax year 2018 2019 and all subsequent tax years, all withholding agents are required to electronically file all 1099 forms and W-2G forms for employees from whom tax was withheld on or before ~~the last day of January~~ February 15 following the tax year.

~~(3) (2)~~ The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

~~(4) (3)~~ Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

ARC 4562C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to exemption for commercial enterprises and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 225, “Resale and Processing Exemptions Primarily of Benefit to Retailers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3 as amended by 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

The Department proposes this rule making to implement an exemption from sales tax added to Iowa Code section 423.3 by 2018 Iowa Acts, Senate File 2417, section 188. Iowa Code section 423.3(104) exempts from sales tax specified digital products, prewritten computer software, and certain enumerated services sold or furnished to a commercial enterprise when used exclusively by the commercial enterprise. The exemption defines “commercial enterprise” to mean the same as it is defined in Iowa Code section 423.3(47)“d”(1) but also adds professions and occupations. Iowa Code section 423.3(104) also directs the Director of the Department to define “de minimis” and “noncommercial purposes” as used in the exemption.

This proposed rule making provides definitions of those two terms and provides some examples to illustrate when a product is being exclusively used by a commercial enterprise. Prior to publication of this Notice of Intended Action, the Department shared the proposed rule with interested stakeholders and received no comments or concerns.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The impact of the exemption itself was not represented individually by the Legislative Services Agency Fiscal Note for 2018 Iowa Acts, Senate File 2417, but was incorporated into the Fiscal Note’s calculation of the additional revenue to be generated by the taxation of “digital goods” generally. Table 7 of the Fiscal Note projected additional revenue collection related to “digital goods” to be \$11.8 million for FY 2019, \$26.2 million for FY 2020, \$28.8 million for FY 2021, \$31.1 million for FY 2022, \$33.6 million for FY 2023, and \$35.6 million for FY 2024.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 20, 2019. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 701—225.8(423):

701—225.8(423) Exemption for commercial enterprises.

225.8(1) Commercial enterprise as purchaser. A purchaser seeking this exemption must be a commercial enterprise as defined in Iowa Code section 423.3(104)“b”(1). For purposes of Iowa Code section 423.3(104)“b”(1), the terms “profession” and “occupation” mean the same as defined in rule 701—paragraph 230.18(3)“c.”

225.8(2) Exclusive use by a commercial enterprise. A commercial enterprise must be the exclusive user of the product. Use in the ordinary course of a commercial enterprise’s business constitutes exclusive use by a commercial enterprise. Uses by all other users, including entities other than commercial enterprises, do not constitute uses by a commercial enterprise.

a. Examples of exclusive uses. The following are examples of exclusive uses by a commercial enterprise in the normal course of business:

- (1) Word processing software loaded onto employees’ work computers.
- (2) Software that displays a menu on a tablet used by customers at a restaurant.
- (3) Information services used by temporary employees of a commercial enterprise in the ordinary course of business.

b. Examples of disqualifying nonexclusive uses. The following are examples of uses that are not exclusive uses by a commercial enterprise or uses in the ordinary course of business:

- (1) Software shared by a commercial enterprise with an entity that is not a commercial enterprise.
- (2) Video games that customers may purchase on a tablet that is provided at a restaurant for customers to use while waiting for service.

REVENUE DEPARTMENT[701](cont'd)

225.8(3) Noncommercial purposes. “Noncommercial purposes” means purposes that are outside of carrying out the business purpose of a commercial enterprise or purposes outside of the ordinary course of business of a commercial enterprise. The following are examples of uses for noncommercial purposes:

- a. Personal and recreational use.
- b. Holding a product for future use for a noncommercial purpose.

225.8(4) De minimis. “De minimis” means an amount of use of a product for noncommercial purposes that, when considering the product’s value and the frequency with which the use for noncommercial purposes occurs during the product’s total use time, is so small as to make accounting for that use unreasonable or impractical. Whether a use is de minimis is a fact-based determination that shall be made on a case-by-case basis.

This rule is intended to implement Iowa Code section 423.3(104).

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:

August 1, 2018 — August 31, 2018	5.00%
September 1, 2018 — September 30, 2018	5.00%
October 1, 2018 — October 31, 2018	5.00%
November 1, 2018 — November 30, 2018	5.00%
December 1, 2018 — December 31, 2018	5.25%
January 1, 2019 — January 31, 2019	5.00%
February 1, 2019 — February 28, 2019	4.75%
March 1, 2019 — March 31, 2019	4.75%
April 1, 2019 — April 30, 2019	4.75%
May 1, 2019 — May 31, 2019	4.50%
June 1, 2019 — June 30, 2019	4.50%
July 1, 2019 — July 31, 2019	4.50%
August 1, 2019 — August 31, 2019	4.00%

ARC 4572C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice****Rule making related to statewide average charges**

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

These amendments update administrative rules to remove specific amounts listed for the statewide average charges for nursing facility services to private-pay residents, average pay charges for nursing facilities and psychiatric medical institutions for children, and the maximum Medicaid rate for intermediate care facilities for persons with an intellectual disability. The annually revised amounts for these charges will now be published on the Department’s website.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4443C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 11, 2019, because these amendments confer a benefit on the public by allowing the updated figures to be available to the public immediately upon filing the rules with the administrative rules coordinator.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The proposed amendments will eliminate the need for emergency rule makings each year. The process of determining the statewide average costs and maximum Medicaid rates will not change. Removing the specific amounts from rules will have no fiscal impact.

Jobs Impact

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

Waivers

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on July 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. ~~For the period from July 1, 2018, through June 30, 2019, this average statewide cost shall be \$6,447.54 per month or \$212.09 per day.~~ Current average statewide costs shall be published on the department's website.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates ~~for the period from July 1, 2018, to June 30, 2019, shall be as follows:~~ are updated annually and shall be published on the department's website.

- ~~(1) The average statewide charge to a private-pay resident of a nursing facility is \$6,005 per month.~~
- ~~(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is \$31,529 per month.~~
- ~~(3) The average statewide charge to a resident of a mental health institute is \$27,667 per month.~~
- ~~(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is \$9,088 per month.~~
- ~~(5) The average statewide charge to a home- and community-based waiver applicant or member shall be consistent with the level of care determination and correspond with the average charges and rates set forth in this paragraph.~~

[Filed Emergency After Notice 7/11/19, effective 7/11/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4568C

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency After Notice

Rule making related to electronic filing

The Workers' Compensation Commissioner hereby amends Chapter 2, "General Provisions," Chapter 3, "Forms," Chapter 4, "Contested Cases," Chapter 5, "Declaratory Orders," Chapter 10,

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

“Informal Dispute Resolution Procedures,” and Chapter 11, “Electronic Data Interchange (EDI),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 85 and section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 85.26, 85.27, 86.8, 86.13, 86.18, 86.24, 86.40, and 87.22.

Purpose and Summary

These amendments facilitate electronic filing of claims and Electronic Data Interchange (EDI) information and provide for electronic filing in contested cases.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4472C**. A public hearing was held on June 25, 2019, at 9:30 a.m. in Room 106, 150 Des Moines Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Commissioner finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 10, 2019, because this rule allows the public greater access to the agency at a reduced cost.

Adoption of Rule Making

This rule making was adopted by the Workers' Compensation Division on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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 rule 876—12.4(17A).

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 July 10, 2019.

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

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 876—2.5(85,85A,85B,86):

876—2.5(85,85A,85B,86) Use of workers' compensation electronic system (WCES) for submission of filings. The division of workers' compensation requires the filing of electronic data interchange (EDI) information, forms, petitions, pleadings, responses, and any other submissions to be effectuated by use of the workers' compensation electronic system (WCES). The website address for WCES is efile.iowaworkcomp.gov. The division of workers' compensation may provide exceptions to the mandatory use of WCES in contested claims. Any electronic filing that is quarantined due to a virus will not be considered received.

2.5(1) The division of workers' compensation shall grant exceptions for filing in WCES for good cause, such as a power outage at the filer's office or home.

2.5(2) The division of workers' compensation shall grant exceptions for part or the duration of a case for good cause, such as when a filer cannot use a computer or does not have regular access to the Internet at home through a device capable of displaying documents. This inability to file in or follow the case could put a filer at a disadvantage before the agency. Only a deputy workers' compensation commissioner or the workers' compensation commissioner can grant an exception for the duration of a case.

2.5(3) The commissioner or the commissioner's designee shall allow the filing of paper documents in case of a systemic failure of WCES.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 2. Adopt the following **new** rule 876—2.7(86):

876—2.7(86) Official record. The electronic record made and maintained by the division of workers' compensation is the official record of a case unless different means are ordered by the commissioner or deputy commissioner or unless a proceeding is not required to use WCES. The division may require parties to scan and file in WCES pleadings, exhibits and other records that were filed as paper documents before the establishment of WCES.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 3. Adopt the following **new** rule 876—2.8(86):

876—2.8(86) Document requirements. Pleadings, responses to pleadings, exhibits, and transcripts submitted to the division of workers' compensation shall be scanned, attached, and filed in portable document format (pdf) or as image-on-text documents (searchable pdf). A hearing report or proposed order or proposed ruling shall be submitted in Microsoft Word format. Transcripts submitted shall include an index. Filings shall not exceed 30 megabytes (MB). Documents exceeding 30 MB shall be divided and submitted as separate attachments to comply with this size limit. All filings pursuant to this rule shall be submitted via WCES unless otherwise ordered by the workers' compensation commissioner, a deputy workers' compensation commissioner or other agency staff who have been delegated authority by the commissioner. Audio or video files shall use MP3 or MP4 format and should be submitted with a virus-scanned USB drive or DVD and shall not exceed 500 MB for each filing.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 4. Adopt the following **new** rule 876—2.9(86):

876—2.9(86) Effective date of WCES rules. All rules and forms of the division of workers' compensation that relate to WCES shall be effective July 16, 2019, for EDI filing and July 22, 2018, for filing in claims before the agency, or when WCES is available to the public, whichever is later.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 5. Amend subrule 3.1(2) as follows:

3.1(2) Subsequent report of injury (SROI).

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

a. The subsequent report of injury (SROI) provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, agreeing to the weekly benefit rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial. The subsequent report of injury (SROI) shall also be filed when compensation is terminated or interrupted. Medical data supporting the action taken shall be filed when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. ~~In the event the transmission of a subsequent report of injury (SROI) contains errors (TE), the errors shall be corrected within 15 days of the date of notification by the agency.~~

b. The employer and insurance carrier who are required to file medical data shall file the medical data in WCES. The employer or insurance carrier or the employer's or insurance carrier's agent shall register in WCES to file the medical data. The filer will receive a status update for the information the filer submits based upon the status the filer selects and for which the filer is approved in WCES.

ITEM 6. Rescind and reserve subrule **3.1(6)**.

ITEM 7. Amend subrule 3.1(7) as follows:

3.1(7) Form—original notice and petition. The following forms are types of original notice and petition: original notice and petition—Form 100 (Form No. 14-0005); original notice, petition, answer and order concerning independent medical examination—Form 100A (Form No. 14-0007); answer and order concerning independent medical examination—Form 100A (Form No. 14-0007A); original notice, petition, answer and order concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009); answer concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009A); original notice, petition, and answer concerning application for alternate medical care—Form 100C (Form No. 14-0011); answer concerning application for alternate medical care—Form 100C (Form No. 14-0011A); original notice, petition, and answer concerning application for vocational training and education—Form 100D (Form No. 14-0012); answer concerning application for vocational training and education—Form 100D (Form No. 14-0012A); original notice and petition for full commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)—Form 9 (Form No. 14-0013); checklist for full commutation (Form No. 14-0015); original notice and petition and order for partial commutation—Form 9A (Form No. 14-0017); and checklist for partial commutation (Form No. 14-0019). See rule 876—4.6(85,86,17A) for further descriptions.

ITEM 8. Amend subrule 3.1(8) as follows:

3.1(8) Form No. 15—subpoena. (Form No. 14-0035) This form is the witness subpoena, which is used to require a witness to appear and testify. ~~Form No. 14-0033 is, and~~ the Subpoena Duces Tecum, which is used to require a witness to appear and to bring specified books and records.

ITEM 9. Rescind and reserve subrule **3.1(14)**.

ITEM 10. Adopt the following **new** subrule 3.1(26):

3.1(26) Form—application to defer payment of filing fees, financial affidavit and order. (Form No. 14-0075) This form is used to request a deferral of payment of filing fees. This form is not initially filed through WCES.

ITEM 11. Adopt the following **new** subrule 3.1(27):

3.1(27) Form—claimant's confidential information sheet. (Form No. 14-0171) This form is used to provide details about the claimant's identifying information so that claims may be matched in WCES. This form is required to be filed by a claimant when the claimant is excused from using WCES.

ITEM 12. Adopt the following **new** subrule 3.1(28):

3.1(28) Form—nonelection of workers' compensation or employers' liability coverage. (Form No. 14-0175) This form is used for exclusion from liability coverage pursuant to Iowa Code section 87.22.

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ITEM 13. Adopt the following **new** subrule 3.1(29):

3.1(29) Form—application to be excused from filing in WCES. (Form No. 14-0176) This form is used by a self-represented party to request permission to file and serve documents in paper form and be excused from using WCES.

ITEM 14. Amend rule 876—4.3(85,85A,86,87), introductory paragraph, as follows:

876—4.3(85,85A,86,87) Compliance proceedings. If the workers' compensation commissioner shall have reason to believe that there has not been compliance with the workers' compensation law by any person or entity, the commissioner may on the commissioner's own motion give notice to the person or entity and schedule a hearing for the purpose of determining whether or not there has been compliance by the person or entity. The notice shall state the time and place of the hearing and a brief statement of the matters to be considered. The notice of hearing may be given by ordinary mail or by WCES if the alleged noncompliant person or entity is registered in WCES and is currently participating in a contested case using WCES and may be given to the insurer for the employer in lieu of the employer as permitted by Iowa Code section 87.10 if the insurer has filed a report, pleading or motion that acknowledges that it is the insurer for the claim at issue. Following the hearing, the commissioner may issue a finding regarding compliance. In the event a failure to comply is found, the commissioner may impose sanctions in accordance with Iowa Code ~~sections~~ section 86.12, 86.13 or 86.13A or order compliance within a specified time and under specified circumstances. The workers' compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division ~~[commerce department]~~ of the department of commerce with a request for action by the insurance division upon failure to comply with the order.

ITEM 15. Amend rule 876—4.7(86,17A), introductory paragraph, as follows:

876—4.7(86,17A) Delivery of notice, orders, rulings and decisions. Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by regular mail, by email or by WCES. Filing of a notice, ruling and decision in WCES is the official filing and start of any appeal or motion deadline. Parties registered in WCES for a claim will be sent a courtesy email informing the parties of a filing. ~~On or after July 1, 2009, a proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by email.~~

ITEM 16. Amend subrule 4.8(2) as follows:

4.8(2) Filing fee.

a. No change.

b. ~~One A filing fee shall be required for as many original notices and petitions as are filed on the same day on account of one employee against a single alleged employer or against entities alleged to be employers in the alternative or alleged to be dual employers.~~ each original notice and petition filed, as required in paragraph 4.8(2) "a." If filing fees have been overpaid, the amount overpaid shall be refunded to the party who made the overpayment.

c. and *d.* Rescinded IAB 11/27/02, effective 1/1/03.

e. and *f.* No change.

g. The filing fee shall be paid at the same time the petition is filed. The filing fee shall be paid electronically with a credit card or electronic check or by other electronic means as allowed by WCES. Checks should be made payable to the "Iowa Division of Workers' Compensation." If the payment of the filing fee is made by an insufficient funds check or a check on which payment is stopped or a check on which payment is otherwise not honored, it will be treated as a failure to pay the correct filing fee. See 4.8(2) "e." ~~One check may be submitted for payment of more than one filing fee if more than one filing fee is due from a petitioner for cases filed on account of an employee. Separate checks must be submitted for each petitioner's case or cases.~~ Nonelectronic payment will not be accepted without an

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

order granting permission for nonelectronic payment. Any statute of limitations is not tolled if a party has requested nonelectronic payment and is awaiting an order.

h. The workers' compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers' compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers' compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers' compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See 4.8(2) "e." The form for the application deferral of prepayment of fees (Form No. 14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been excused from using WCES.

i. Rescinded IAB 1/29/97, effective 3/5/97.

j. Parties shall use the payment gateway in WCES to pay filing fees, unless an order has been issued allowing deferral of the payment of the filing fee or payment outside of WCES. In addition to the filing fee, the parties shall pay the convenience fee charged by the financial institution that is processing payment for WCES. This cost may be recoverable under rule 876—4.33(86).

ITEM 17. Amend rule 876—4.9(17A), introductory paragraph, as follows:

876—4.9(17A) Appearance and responses, pleading and pleadings, motions and settlements. Responses Appearances and responses to pleadings and motions shall be made as follows: using the division of workers' compensation's WCES. Registration with the division of workers' compensation's WCES is required. Registration is accepted at efile.iowaworkcomp.gov. After a matter has been commenced and the respondent has been served with original notice and filed an answer or appearance, subsequent filings or submissions in WCES do not require proof of service to parties of record who are registered with WCES. Attorneys will need to use the AT pin or pro hac vice pin assigned by the Iowa Supreme Court to be associated with a case in WCES. When an attorney is not representing a party, the employer or insurance carrier or the employer's or insurance carrier's agent or claimant shall register in WCES to file the settlement or medical data pursuant to 876—subrule 3.1(2). The filer will receive a status update for the information the filer submits based upon the status the filer selects when registering in WCES.

ITEM 18. Amend subrule 4.9(1) as follows:

4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent. ~~The appearance shall include the email address and the fax number of the respondent, if available, if the respondent is not represented by counsel. The caption of an answer shall disclose the file number of the compliance file in which the first report of injury was filed for the injury that is alleged in the original notice and petition.~~ A respondent shall file a response by answer or motion by using WCES for all claims in which a petition was filed within WCES unless permission has been granted to be excused from using WCES.

ITEM 19. Amend subrule 4.9(6) as follows:

4.9(6) Form, submission and ruling on motions. All motions, including pre-answer motions, and motions for summary judgment ~~and applications for adjudication of law points~~, shall have appended to them a concise memorandum brief and argument. All motions and applications ~~for adjudication of law points~~ except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions ~~and applications for adjudication of law points~~ shall have appended to them a concise memorandum brief and argument,

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and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion, application or resistance.

An order may be entered consolidating any motion for ruling with hearing of the contested case. Any party desiring a ruling on a motion prior to hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers' compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

ITEM 20. Amend subrule 4.9(8) as follows:

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

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319, when filing by mail, or 150 Des Moines Street, Des Moines, Iowa 50319, when filing in person, within ten days following the date the notice was mailed or personally delivered to the client. The client's response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

ITEM 21. Adopt the following **new** subrule 4.9(10):

4.9(10) *Pro hac vice.* An out-of-state attorney desiring to appear pro hac vice in an Iowa division of workers' compensation case is required to access the office of professional regulation (OPR)/supreme court commissions (SCC) website, submit certain personal information to complete pertinent fields in the lawyer database, and pay a fee that will be deposited in the client security trust fund. The registration and fee payment allow the attorney to apply to appear pro hac vice in Iowa division of workers' compensation cases, subject to the limits and requirements of Iowa Court Rule 31.14, for a period of up to five years from the date of registration. Attorneys who register and pay the fee appear in the OPR/SCC database with the status of "pro hac vice." The Iowa division of workers' compensation will request from the Iowa courts that a pro hac vice number be issued and will provide that number to the out-of-state attorney for registration with WCES. The affiliated in-state attorney shall file in WCES the application to appear pro hac vice completed by the out-of-state attorney using a pleading that is substantially similar to Iowa Court Rule 31.25—Form 1.

ITEM 22. Amend rule 876—4.11(86), introductory paragraph, as follows:

876—4.11(86) Signatures on documents and papers. All documents and papers required by these rules, the Iowa ~~rules~~ Rules of civil procedure Civil Procedure as applicable, or a statutory provision shall be signed by the party if unrepresented or the party's attorney if represented. The party's signature in addition to the attorney's signature shall be necessary only when otherwise required by these rules, the Iowa ~~rules~~ Rules of civil procedure Civil Procedure as applicable, and any statutory provision. Iowa R. Elec. P. 16.305 concerning signatures is applicable to WCES.

ITEM 23. Amend rule 876—4.13(86), introductory paragraph, as follows:

876—4.13(86) Method of service. Except as provided in 876—4.6(85,86,17A) and 876—4.7(86,17A), service of all documents and papers to be served according to 876—4.12(86) and 876—4.18(85,86,17A)

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or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers' compensation commissioner. Service upon the attorney or party shall be made by delivery of a copy to or mailing a copy to the last known address of the attorney or party, or if no address is known, by filing it with the division of workers' compensation using WCES once a party or party's attorney has registered in WCES for the claim being contested. If a party has been allowed to not file with WCES or if a party or attorney has not appeared in WCES, service upon the attorney or party shall be made by delivery of a copy or mailing a copy to the last-known address of the attorney or party or, if no address is known, by filing a copy with the division of workers' compensation. Delivery of a copy within this rule means: Handing it to the attorney or party; leaving it at the office of the attorney or party's office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person's dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. Documents that are served on a party for discovery and medical evidence under 876—4.14(86) and 876—4.18(17A,85,86) are not to be filed with the division of workers' compensation. No documents or papers referred to in this rule shall be served by the workers' compensation commissioner.

ITEM 24. Amend rule 876—4.15(86), introductory paragraph, as follows:

876—4.15(86) Proof of service. Proof of service of all documents and papers to be served on another party under 876—4.12(86) shall be filed with the division of workers' compensation promptly, and, in any event, before action is to be taken thereon by the workers' compensation commissioner or any party unless a responsive pleading has been filed. The Proof shall be made by filing the document in WCES when another party is registered in WCES for that claim. If a party or a party's attorney or representative is not in WCES for the claim being contested, the proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the workers' compensation commissioner.

ITEM 25. Amend subrule 4.19(3) as follows:

4.19(3) For contested cases that were filed on or after July 1, 2004, the following time limits govern prehearing procedure, completion of discovery and case management in contested cases, except proceedings under rules 876—4.46(17A,85,86) and 876—4.48(17A,85,86) and except when otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner.

a. Within 120 days, but not less than 60 days, following filing of a petition, the counsel of record for all parties and all pro se litigants shall request a hearing by using WCES when this function is available to the public in WCES. In a case for which permission has been granted to be excused from using WCES, counsel of record for all parties and all pro se litigants shall jointly contact the hearing administrator by telephone at (515)281-6621 ~~725-3891~~ between the hours of 8:30 a.m. and 11 a.m. central time, Monday through Friday, excluding holidays, or by email at dwc.hearing@iwd.state.ia.us to schedule a hearing date, place and time. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division's website. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by email, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or email until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the hearing administrator may assign the case for hearing at ~~that~~ any date, time and place. The hearing date shall be within 12 months following the date the petition was filed or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties

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fail to schedule the hearing with the hearing administrator, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.

b. and *c.* No change.

d. At least 30 days before hearing, counsel of record and pro se litigants shall serve a witness and an exhibit list on all opposing counsel and pro se litigants and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. The witness and exhibit lists are not filed in WCES. If the exhibit list does not contain actual exhibits, the exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document's date, number of pages and author or source. Exhibits that were specifically identified when served pursuant to rule 876—4.17(17A,85,86) or in a discovery response may be collectively identified by describing the service such as "exhibits described in the notices served pursuant to rule 876—4.17(17A,85,86) on May 7, June 11 and July 9, 2004." Blanket references such as "all medical records," "personnel file" or "records produced during discovery" do not specifically identify an exhibit. A party may serve a copy of the actual intended exhibits in lieu of an exhibit list. At least 14 days before hearing, counsel of record and pro se litigants shall file proposed exhibits in WCES or, if the counsel of record and pro se litigants are excused from using WCES, shall file the proposed exhibits with the division of workers' compensation. Counsel of record and pro se litigants shall file all written objections and motions to exclude evidence at least seven days before the hearing. Objections to exhibits are waived if they are not filed at least seven days before the hearing. Evidentiary depositions pursuant to Iowa Code section 86.18(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, as altered by order of the workers' compensation commissioner or a deputy workers' compensation commissioner or by a written agreement by the parties, the evidence will be excluded if the objecting party shows that receipt of the evidence would be unfairly prejudicial. Sanctions may be imposed pursuant to 876—4.36(86) in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice. If a party offers an exhibit or document in paper form which is accepted by the workers' compensation commissioner or a deputy workers' compensation commissioner, the party shall have five working days to submit an electronic copy of the document by using WCES.

f. Counsel At least 14 days before the hearing, counsel of record and pro se litigants shall prepare and file a joint hearing report that defines the claims, defenses, and issues that are to be submitted to the deputy commissioner who presides at the hearing. The hearing report shall be filed in Microsoft Word format as a proposed hearing report. After the hearing report is finalized at the hearing, the deputy commissioner or a party shall save and file the completed hearing report as a pdf or scanned document in WCES. The hearing report shall be signed by all counsel of record and pro se litigants and submitted to the deputy when the hearing commences.

g. If a filer is unable to meet a nonjurisdictional filing deadline because of a technical failure in WCES, the filer must file the document using the earliest available electronic or nonelectronic means. The filing of the document will be accepted by the division of workers' compensation as timely unless the commissioner or deputy commissioner determines that the untimely filing of the document should not be excused.

h. Jurisdictional deadlines, including but not limited to any applicable statute of limitations, cannot be extended. It is the filer's responsibility to ensure that a document is filed timely to comply with jurisdictional deadlines. A technical failure, including a failure of WCES, will not excuse a failure to comply with a jurisdictional deadline.

i. A filer is not excused from missing a jurisdictional or nonjurisdictional filing deadline because of problems attributable to the filer (such as telephone line problems, problems with the filer's Internet service provider, hardware problems, software problems, etc.).

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ITEM 26. Amend rule 876—4.24(17A,86) as follows:

876—4.24(17A,86) Rehearing. Any party may file an application for rehearing of a proposed decision in any contested case by a deputy commissioner or a decision in any contested case by the workers' compensation commissioner within 20 days after the issuance of the decision. A If a party has been allowed to file not using WCES or a party to the claim is not in WCES, a copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. An application for rehearing shall be deemed denied unless the deputy commissioner or workers' compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 27. Amend subrule 4.28(2) as follows:

4.28(2) Cross-appeals. In the event of a cross-appeal, appellee (cross-appellant) shall serve its brief within 20 days after service of the brief of appellant. Appellant (cross-appellee) shall serve its responsive reply brief within 20 days after service of the brief of appellee. Appellee (cross-appellant) may serve a reply brief within 10 days after service of appellant's reply brief. ~~When both parties appeal, the first to serve notice of appeal shall be appellant unless both serve their notice on the same date, in which case the claimant shall be appellant.~~ When more than one party appeals, the party filing the first notice of appeal will be designated the appellant and the party filing a subsequent notice of appeal will be designated the cross-appellant.

ITEM 28. Amend rule 876—4.29(86,17A), introductory paragraph, as follows:

876—4.29(86,17A) Review upon motion. Except as provided in 876—4.25(17A,86) the commissioner may review the decision, order or ruling of a deputy commissioner in any contested case upon the commissioner's own motion. Except as provided in 876—4.25(17A,86), the motion to review a decision, order or ruling in all contested cases must be filed within 20 days of the filing of the decision, order or ruling. The commissioner shall specify in a notice filed in WCES or mailed to the parties by certified mail, return receipt requested, on the date of filing of the motion the issues to be reviewed and the additional evidence, if any, to be obtained by the parties. The hearing under this rule shall be heard in Polk County or in any locality designated by the workers' compensation commissioner.

ITEM 29. Amend rule 876—4.33(86), introductory paragraph, as follows:

876—4.33(86) Costs. Costs taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, including convenience fees incurred by using the WCES payment gateway, and (8) costs of persons reviewing health service disputes. Costs of service of notice and subpoenas shall be paid initially to the serving person or agency by the party utilizing the service. Expenses and fees of witnesses or of obtaining doctors' or practitioners' reports initially shall be paid to the witnesses, doctors or practitioners by the party on whose behalf the witness is called or by whom the report is requested. Witness fees shall be paid in accordance with Iowa Code section 622.74. Proof of payment of any cost shall be filed with the workers' compensation commissioner before ~~it is~~ costs are taxed. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the case unless otherwise required by the ~~rules of civil procedure~~ Iowa Rules of Civil Procedure governing discovery.

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ITEM 30. Amend rule 876—4.39(17A,86) as follows:

876—4.39(17A,86) Filing by facsimile transmission (fax). ~~All~~ When permission has been granted to be excused from using WCES, all documents filed with the agency pursuant to this chapter and Iowa Code section 86.24 except an original notice and petition requesting a contested case proceeding (see Iowa Code section 17A.12(9)) may be filed by facsimile transmission (fax). A copy shall be filed for each case involved. A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax is the date the document is received by the agency. The agency will not provide a mailed file-stamped copy of documents filed by fax. The agency fax number is (515)281-6501.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 31. Amend subrule 4.48(8) as follows:

4.48(8) Notice of hearing. The workers' compensation commissioner will notify the parties by ordinary mail, ~~or~~ by facsimile transmission (fax) or by WCES of the time, place and nature of hearing. No notice will be made until a proper application is received by the workers' compensation commissioner. The notice will specify whether the hearing will be by telephone, ~~or~~ in person or by other digital means.

ITEM 32. Amend subrule 4.48(12) as follows:

4.48(12) Hearing. The hearing will be held ~~either~~ by telephone, ~~or~~ in person or by other digital means in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing.

~~If the hearing was electronically recorded, copies~~ Copies of the tape recording will be provided to the parties. A transcript shall be provided by the appealing party pursuant to Iowa Code ~~subsection~~ section 86.24(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the workers' compensation commissioner unless the parties submit an ~~agreed~~ agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers' compensation commissioner for resolution. Any transcription charges incurred by the workers' compensation commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code ~~subsection~~ section 86.19(1) by the party who disputes the accuracy of the transcript prepared by the appellant.

ITEM 33. Amend subrule 4.50(3) as follows:

4.50(3) Application for vocational training and education.

a. An application shall:

- ~~a.~~ (1) Only concern the issue of vocational training, education, and supplies;
- ~~b.~~ (2) Be filed on the form provided by the division of workers' compensation;
- ~~c.~~ (3) State the reasons for the application;
- ~~d.~~ (4) Be served on the other party;
- ~~e.~~ (5) Contain a proof of service on the other party; and
- ~~f.~~ (6) Specify whether a telephone or in-person hearing is requested.

b. An application for vocational training and education must be filed in WCES unless permission has been granted to file paper documents. Applicant(s) must serve a copy of this form on the appellee(s) by certified mail, return receipt requested, or by personal service as in civil actions in accordance with rule

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876—4.7(86,17A) and mail a copy to the attorney of record for the appellee(s), if known, in accordance with rule 876—4.13(86).

ITEM 34. Adopt the following new rule 876—4.51(86):

876—4.51(86) Agency notice of judicial review matters. A party who petitions for judicial review is responsible for filing with the division of workers' compensation's WCES a copy of the petition for judicial review within ten days of filing the petition with a district court. A party shall also file a copy of each appellate court decision within ten days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers' compensation of the result of the appellant process.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 35. Adopt the following new rule 876—4.52(86):

876—4.52(86) Rules of electronic procedure. Chapter 16 of the Iowa Court Rules of Electronic Procedure shall govern the use and filings in WCES for contested case proceedings before the workers' compensation commissioner unless the provisions are in conflict with these rules and Iowa Code chapters 85, 85A, 85B, 86, 87 and 17A or obviously inapplicable to the workers' compensation commissioner. In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word "court" shall be deemed reference to the "workers' compensation commissioner or deputy workers' compensation commissioner," reference to the word "trial" shall be deemed reference to "contested case hearing," and reference to "clerk of court" shall be deemed reference to staff at the division of workers' compensation.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 36. Amend rule 876—5.1(17A), introductory paragraph, as follows:

876—5.1(17A) Petition for declaratory order. Any person may file a petition with the workers' compensation commissioner for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the workers' compensation commissioner, at the office of the workers' compensation commissioner. Parties shall not use WCES for declaratory order proceedings. A petition is deemed filed when it is received by that office. The workers' compensation commissioner shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 37. Adopt the following new subrule 10.3(5):

10.3(5) WCES shall not be used for health service dispute matters.

ITEM 38. Amend rule 876—11.2(85,86) as follows:

876—11.2(85,86) Definitions. The following definitions apply to 876—Chapter 3 and this chapter.

"EDI" or "electronic data interchange" means electronic transmission or reception, or both, of data through a telecommunications process utilizing a value-added network or the Internet as set forth in the EDI partnering agreement.

"EDI partnering agreement" means the written agreement between an entity and the division of workers' compensation specifying the terms and manner of reporting by EDI.

"Filed" means receipt and acceptance of a report by the division of workers' compensation. A report is considered to be "filed" on the date it is accepted (TA) by the division of workers' compensation. A report that is submitted but rejected (TR) is not considered "filed." ~~A report that is accepted with errors (TE) must be corrected within five days after the acknowledgement is sent.~~

~~*"Implementation plan"* means the written document prepared by a reporter specifying a timetable for reporting by EDI.~~

"Report" means a first report of injury (FROI) or a subsequent report of injury (SROI), or both.

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“*Reporter*” means the person who is responsible for reporting to the division of workers’ compensation pursuant to the Iowa workers’ compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer workers’ compensation insurance.

“*Reporting*” means submission of claims data and data fields of information of a report.

ITEM 39. Amend rule 876—11.3(85,86) as follows:

876—11.3(85,86) Form of reporting. The format of EDI reporting must be the current version of the International Association of Industrial Accident Boards and Commissions (IAIABC) Release 2 3.1 FROI/SROI.

ITEM 40. Rescind and reserve rule **876—11.5(85,86)**.

ITEM 41. Amend rule 876—11.6(85,86) as follows:

876—11.6(85,86) Mandatory reporting deadline. All reporters must sign a partnering agreement and begin reporting by EDI Release 3.1 no later than ~~July 1, 2004~~ July 16, 2019, or when WCES is available to the public, whichever is later. Reporting by any means other than EDI Release 3.1 after ~~July 1, 2004~~ July 16, 2019, will not be acceptable, unless WCES is not available to the public. Reporters are responsible for reporting by EDI. A reporter may contract with another entity for reporting, but the reporter is ultimately responsible for reporting. Any entity reporting on behalf of a reporter must also sign an EDI partnering agreement.

ITEM 42. Amend rule 876—11.7(85,86) as follows:

876—11.7(85,86) Required reports.

11.7(1) A reporter shall file reports as required by Iowa Code sections 86.11, 86.12, and 86.13, 876—subrules 3.1(1) and 3.1(2), this chapter and the partnering agreement. Reports required to be filed include, but are not limited to, the following:

- a.* First report of injury (FROI). See 876—subrule 3.1(1);
- b.* Subsequent report of injury (SROI). See 876—subrule 3.1(2);
- c.* Annual report on every claim that is open on June 30 each year. The annual report shall show all benefits paid since the claim was initiated through June 30 of the current year. A final report shall be filed in lieu of the annual report if the claim is closed and the final report is filed before the date when the annual report is scheduled to be filed; and
- d.* Final report filed at the time the claim is closed. The final report indicates that no further benefit payments are contemplated.

11.7(2) A reporter shall file a change to FROI and SROI reports whenever a reporter is made aware that information previously submitted is incorrect. The reporter shall file a change within 45 days after being made aware that previously submitted information is incorrect. Information for which a change shall be filed includes, but is not limited to, the injured employee’s social security number, date of injury, employer’s name, and injured employee’s name. A reporter shall also correct information used in calculation of the compensation rate including, but not limited to, marital status and number of exemptions, average weekly wage, and compensation rate at the time of the employee’s injury. If a final decision by the division of workers’ compensation or a court of law changes any of the previously submitted information, the attorney for the employer and insurance carrier shall notify the reporter. The reporter shall file a change within 45 days of the final decision.

[Filed Emergency After Notice 7/10/19, effective 7/10/19]

[Published 7/31/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4571C

ATTORNEY GENERAL[61]

Adopted and Filed

Rule making related to crime victim assistance

The Attorney General hereby amends Chapter 9, "Victim Assistance Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 915.82(2) and 915.83(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 709 and 915.

Purpose and Summary

The purpose of this rule making is to implement rules based on statutory provisions authorized under 2009 Iowa Acts, chapter 179, section 47; 2011 Iowa Acts, chapter 34, section 157; and 2018 Iowa Acts, chapter 1107, sections 1 and 2; and to amend rules adopted under Iowa Code chapter 915, subchapter VII, Victim Compensation, and subchapter V, Victims of Sexual Assault. These amendments will modernize the administrative rules in Chapter 9 and help control costs to the crime victim compensation fund.

The crime victim compensation fund has experienced a cumulative decrease of \$1,726,500 in deposits from state revenue sources between SFY13 and SFY17. During the same period, the compensation fund has seen an increase in obligations for sexual assault examinations. The cost per claim has risen from \$719 in SFY14 to \$911 in SFY17. During this period, the number of claims submitted by medical providers has risen by nearly 20 percent. These amendments allow the Crime Victims Assistance Division to set reasonable rates for the laboratory and prescription drug charges billed to the fund. The average cost per claim has risen from \$100 per claim in SFY13 to \$207 per claim in SFY17 for prescription drugs, and the average cost per claim has risen from \$156 per claim in SFY13 to \$196 per claim in SFY17 for laboratory charges.

Compensation payments made to eligible victims are not taxable under state or federal tax regulations. Under current rules, the Crime Victim Compensation Program calculates income loss at the gross rate of pay. Since payments are not considered taxable income, a decrease would not impact an eligible victim's out-of-pocket wage loss. However, a percentage decrease would assist the Iowa Department of Justice with controlling obligations of the fund.

This rule making rescinds subrules 9.35(5) and 9.35(6) regarding compensation for counselors funded by the federal Victims of Crime Act (VOCA). The Department ceased compensating VOCA-funded programs in 2010 because compensating a VOCA-funded counselor may violate certified assurances subgrantees provide when accepting VOCA funds.

This rule making enhances the ability of the program to compensate eligible survivors of a deceased victim for up to 30 days of lost wages following the death of an eligible victim. Under current rules, the program can compensate the parent, spouse, or child of a deceased victim for up to 30 days of lost wages without a disability statement. These amendments enhance the program's wage loss benefit for eligible survivors when the relationship between the deceased victim and the survivor compels the survivor to miss work for grief and the missed work is documented.

This rule making also makes grammatical changes and updates cross references in the rules.

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Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4350C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Attorney General on May 3, 2019.

Fiscal Impact

From SFY14 to SFY17 wage loss payments totaled \$3,093,311. A 25 percent reduction to gross wage calculation is adopted in this rule making. Based on wage loss payments issued between SFY14 and SFY17, this reduction will save an average of \$193,331 per year.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Attorney General for a waiver of the discretionary provisions, if any, pursuant to rule 61—9.37(17A).

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 September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 61—9.26(915) as follows:

61—9.26(915) Definitions. For rules of the crime victim compensation program of the crime victim assistance division of the department of justice, the following definitions apply:

“*Affinity*” means the relationship of persons who are related by marriage, cohabitation, or engagement to be married.

“*Applicant*” includes the following individuals who file an application with the crime victim compensation program:

1. A victim of a crime as defined in Iowa Code section ~~915.80(6)~~ 915.80.
2. A person responsible for the care and maintenance of a victim.
3. A resident of Iowa who is the victim of an act that would be compensable had it occurred within the state of Iowa and ~~the act occurred in a state or foreign country that does not have a victim compensation program as defined in the federal law.~~ any of the following apply:
 - The act occurred in a state or foreign country that does not have a victim compensation program as defined in the federal law;
 - The act occurred in a state or foreign country whose victim compensation program has insufficient or inadequate benefits; or

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• The act occurred on an aircraft while in flight or occurred on waters outside of the jurisdiction of any particular state or country.

4. In the event of a victim's death, the spouse, ~~children, parents, siblings, or persons~~ former spouse, child, foster child, parent, legal guardian, foster parent, stepparent, sibling, or foster sibling of a victim, or a person cohabiting with, or otherwise related by blood or affinity to the victim. An estate is not an eligible applicant for crime victim compensation. An estate shall, however, be reimbursed for funeral and burial expenses if the estate paid the costs on behalf of an eligible applicant who shall benefit from the proceeds of the estate.

5. A legal representative authorized to act on behalf of any of the persons listed above.

"Board" means the crime victim assistance board of the department of justice.

"Causal relationship" means that the crime would not have occurred without the action of the victim. A causal relationship exists if the actions of the victim result in a foreseeable injury, play a substantial role in the injury, or directly cause the injury.

"Claimant" means an applicant who has been found to be eligible for compensation.

"Cohabiting" means living in the same household. It is not necessary to establish that a sexual relationship exists between the parties.

"Compensation" means moneys awarded by the division as authorized in Iowa Code chapter 915.

"Consent" means to agree to a course of action or to voluntarily allow what is planned or done by another.

"Counseling" means problem solving and support concerning emotional issues that result from a compensable crime. Counseling is a confidential service provided ~~in person~~ on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well-being and social functioning. Counseling does not include victim advocacy services ~~such as crisis telephone counseling~~; conversation in a nonprivate setting such as the common area of a shelter or a courthouse; transportation; or attendance at medical procedures, law enforcement interviews or civil and criminal justice proceedings.

"Crime" as defined in Iowa Code section 915.80 includes:

1. Conduct punishable as a misdemeanor or a felony.
2. Property crimes including but not limited to robbery, residential burglary, and residential arson, where there is a threat of personal injury or harm against a person.
3. Violation of a custody order in which the custodial parent suffers injury.

"Denial" means disqualification of an application or reduction in the amount of compensation paid.

"Department" means the department of justice, i.e., the attorney general's office.

"Dependent" means a person who is wholly or partially reliant upon a victim for care or support and includes a child of the victim born after the victim's death, or a person who is unable to care for himself or herself due to injury, disability, or minor age status.

"Director" means the director of the crime victim assistance division established in the department of justice.

"Division" means the crime victim assistance division of the department of justice.

"Incitement" means to urge forward or to goad to action.

~~Income~~ Lost wages or income," "lost income," or "lost wages" means the gross income or gross wages rate of pay, decreased by 25 percent.

"Medical care" means services provided by or provided under the supervision of a person licensed under Iowa law as a medical physician or surgeon, osteopathic physician or surgeon, chiropractor, podiatrist, physical therapist, acupuncturist, or dentist. Medical care also includes services rendered in accordance with a method of healing sanctioned by a federally recognized sovereign nation or tribe.

"Medically necessary" means that the items and services, prescribed or recommended by a medical provider under the prescriptive authority of the medical provider's license, ~~which~~ are reasonably necessary to facilitate the victim's physical and emotional recovery from the compensable crime.

"Pecuniary loss" means the amount of medical or medical-related expenses and shall include, but not be limited to, eyeglasses, hearing aids, dentures, prosthetic devices including those which were taken, lost, or destroyed during the crime, home health care, medications, counseling, pregnancy-related

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services, equipment rental or purchase, property alteration, transportation for emergencies and medical care provided outside the victim's county of residence, or health insurance premiums covered by an employer previous to the victim's disability from the crime. Pecuniary loss shall also include the loss of income that the victim has incurred as a direct result of the injury to the extent that the victim has not been and shall not be indemnified from any other source.

"*Personal injury*" or "*injury*" means bodily harm or mental suffering and shall include a victim's pregnancy or miscarriage resulting from a crime.

"*Program*" means the crime victim compensation program of the department of justice.

"*Provocation*" means to cause anger, resentment, or deep feelings that cause or instigate another to take action.

"*Public funds*" means moneys provided by federal, state, county, city or other local government.

"*Reasonable charges*" means charges ordinarily charged by the provider of the service to the general public for services of a similar nature.

"*Residence*" means a property on which an applicant lives and may include but is not limited to a dwelling, detached garage, shed, or similar structure located on the property, or a privately owned vehicle if the vehicle serves as the primary residence.

ITEM 2. Amend subrule 9.28(4) as follows:

9.28(4) *Program effective date.* The effective date of the crime victim compensation program is January 1, 1983. Victims and survivors of crimes that were committed prior to the effective date ~~are not~~ may be eligible for compensation if the program can obtain sufficient documentation to verify eligibility.

ITEM 3. Amend subrules 9.29(4), 9.29(7) and 9.29(8) as follows:

9.29(4) *Good cause.* In determining whether there is good cause for waiving the requirement to report a crime to law enforcement within 72 hours of the occurrence of the crime, the victim's age, physical condition, psychological state, cultural or linguistic barriers, and any compelling health or safety reasons that would jeopardize the well-being of the victim may be considered. In the event good cause is found, the crime must be substantiated through disclosure to another provider including, but not limited to, a licensed medical provider, a licensed mental health professional, or a designated victim service provider.

9.29(7) *Sexual abuse victim.* For a victim of sexual abuse, ~~the department finds there is good cause to waive the 72-hour reporting requirement~~ may be waived for good cause if a sexual abuse evidentiary examination was completed within 72 hours of the crime and the victim files a subsequent law enforcement report or if the crime was disclosed to another provider including, but not limited to, a licensed medical provider, a licensed mental health professional, or a designated victim service provider.

9.29(8) *Domestic abuse victim.* For a victim of domestic abuse, ~~the department finds there is good cause to waive the 72-hour reporting requirement~~ may be waived for good cause if a pro-se protection domestic abuse protective order pursuant to Iowa Code chapter 236 is entered by the court and or if the victim files a subsequent law enforcement report crime was disclosed to another provider including, but not limited to, a licensed medical provider, a licensed mental health provider, or a designated victim service provider.

ITEM 4. Amend rule 61—9.30(915), introductory paragraph, as follows:

61—9.30(915) *Cooperation with law enforcement.* To be eligible for compensation, the ~~victim of~~ crime victim must cooperate with the reasonable requests of law enforcement. After considering the factors in subrule 9.29(4), the department may waive the requirement if good cause is shown.

ITEM 5. Amend subrule 9.31(4), introductory paragraph, as follows:

9.31(4) *Additional assessment of provocation and incitement, and commission of a criminal act.* In assessing the causal nature of provocation or incitement and commission of a criminal act pursuant to Iowa Code section ~~915.87(2)"a,"~~ 915.87(2), the division may consider law enforcement documentation that indicates:

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ITEM 6. Amend subrule 9.32(2) as follows:

9.32(2) *Reopening applications.* Pursuant to Iowa Code section 915.83(2), the department may reopen and reinvestigate an application if the department determines that the decision was incorrect or incomplete. A denied application may be reopened and reinvestigated if it is discovered through a criminal trial or other investigatory source that the information relied upon for the denial decision was incorrect or incomplete. The eligibility of an approved application will be reopened for consideration if information is discovered through a criminal trial or other investigatory source that ~~indicates that there is reason to deny the application~~ the information relied upon for the approval decision was incorrect or incomplete. The reopening of a denied or approved case is at the discretion of the administrator for the compensation program, the director, or the board.

ITEM 7. Amend subrules 9.34(2), 9.34(4) and 9.34(5) as follows:

9.34(2) *Payer-of-last-resort* ~~*Payer of last resort.*~~ The program is a ~~payer-of-last-resort~~ payer of last resort pursuant to federal law ~~42 U.S.C. 10602(1403)~~ 34 U.S.C. 20102. Compensation shall not be paid for services when the provision for those services is mandated by law or administrative rule to be the responsibility of another governmental unit, private agency or program. Payments shall be reduced by payments made by offenders and third parties responsible for the damages of the crime. The department may waive this requirement for good cause after considering the factors in subrule 9.29(4), for compensation made from state funds.

9.34(4) *Insurance providers.* Eligible victims and claimants must give service providers the information necessary to bill insurance providers for crime-related treatment. Payment of compensation will not be made if the victim refuses or fails to provide information requested by the service or insurance provider or to sign the required assignment of benefits within a reasonable time frame. The department may waive this requirement if the victim can demonstrate good cause exists. Good cause may include, but is not limited to, situations where the insurance policyholder is the perpetrator of the crime that gave rise to the claim.

9.34(5) *Supplanting of funds prohibited.* Compensation shall be made only when the claimant is responsible for the cost of crime-related injury. Compensation shall not be paid when a government entity, including but not limited to a mental health facility, jail, or prison, is responsible for the costs of treatment for injury from crime, unless the entity is legally allowed to pass those costs along to the victim.

ITEM 8. Amend rule 61—9.35(915), introductory paragraph, as follows:

61—9.35(915) *Computation of benefit categories.* The division shall determine the amount of compensation to be awarded to an eligible applicant for injury from crime for each benefit category pursuant to Iowa Code section ~~985.86~~ 915.86.

ITEM 9. Amend paragraphs **9.35(1)“a,” “h” and “i”** as follows:

a. Medical care sanctioned by sovereign nations and tribes. Compensation may be paid for medical care rendered in accordance with a method of healing sanctioned by a state-recognized or federally recognized sovereign nation or tribe.

h. Transportation for medical emergency. Compensation may be paid for the reasonable cost of transportation in a medical emergency by private vehicle at the ~~state rate for boards and commissions per mile~~ per-mile rate established by the department of administrative services for state employees using a privately owned vehicle for state business. Mileage will be based on mileage calculation from the most current map published by the department of transportation. Transportation within a city limits will be based on the program’s estimate of mileage from the location of the injured victim to the medical facility.

i. Transportation for nonemergency care. Compensation may be paid for the cost of transportation by commercial vehicle or by private car for nonemergency medical care and counseling received outside of the victim’s county of residence. Transportation provided by private vehicle for nonemergency care will be reimbursed at the ~~state rate for boards and commissions per mile~~ per-mile rate established by the department of administrative services for state employees using a privately

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owned vehicle for state business. Mileage will be based on mileage calculation from the most current map published by the department of transportation.

ITEM 10. Amend subrule 9.35(3), introductory paragraph, as follows:

9.35(3) *Mental health counseling.* Compensation may be paid for the reasonable costs of up to 12 mental health counseling sessions for eligible crime victims and survivors of a homicide victim. ~~When with the provision of a treatment plan and certification as defined in paragraph 9.35(4) "a."~~ Costs for those 12 sessions will be paid in full if the crime is noted in the treatment plan. If preexisting mental health issues are addressed during crime-related counseling sessions following the initial 12 visits, the program may reduce payment to a percentage equal to the portion of the counseling determined to be directly related to the compensable crime. The mental health counseling provider shall submit a vitae establishing the provider's educational qualifications for compensation. A provider who is required to be licensed under Iowa law must provide proof of licensure and good standing with the professional licensing board. Compensation shall be paid for mental health counseling provided by the following:

ITEM 11. Rescind subrules **9.35(5)** and **9.35(6)**.

ITEM 12. Renumber subrules **9.35(7)** to **9.35(11)** as **9.35(5)** to **9.35(9)**.

ITEM 13. Amend renumbered subrule 9.35(5) as follows:

9.35(5) *Counseling with the perpetrator.* Compensation for mental health ~~or victim service~~ counseling that includes the perpetrator of the crime may be payable when the perpetrator takes part ~~only~~ to take responsibility for the crime and apologize to the victim and the victim is allowed to confront the perpetrator regarding the effects of the crime; or at the request of the victim.

ITEM 14. Amend renumbered subrule 9.35(7) as follows:

9.35(7) *Lost wages or income.* Compensation may be paid for reasonable lost wages or income when an eligible crime victim is unable to work as the result of physical or emotional injury from a crime, ~~or as a result of cooperation with the investigation or prosecution of the crime,~~ or due to health and safety concerns related to maintaining employment. ~~Lost wages or income due to crime is determined~~ are computed as follows: the gross rate of pay multiplied by the number of scheduled hours of work missed, decreased by 25 percent pursuant to the definition of "lost wages or income" in rule 61—9.26(915). Lost wages or income due to the crime is determined as follows:

~~a. *Gross wages computed.* Lost wages are computed as the gross rate of pay times the number of scheduled hours of work missed.~~

~~b. a. *Variable income.* Income that is variable shall be computed based on the average income earned during a minimum 28-day period within the three months preceding the crime. Estimated earnings not supported by past income statements shall not be accepted.~~

~~e. b. *Self-employment and small business income.* Self-employed persons or small business employees must provide federal or state income tax forms for the most recent year completed or verification of average income for a minimum of the past six months. Work estimates, labor contracts, and affidavits from individual employers may be used to establish wages.~~

~~d. c. *Vacation, sick, holiday, bereavement, and annual leave.* Lost wages or income paid shall not be reduced by vacation, sick, holiday, bereavement, or annual leave available or used by the victim due to the crime.~~

d. *Calculation when rate of pay cannot be established.* In the event employment can be verified but the rate of pay cannot be established through pay stubs, state or federal tax forms, or bank statements, compensation shall be calculated at the current state minimum wage rate on the basis of an eight-hour workday.

ITEM 15. Amend renumbered subrule 9.35(8) as follows:

9.35(8) *Lost wages or income due to disability as the result of physical or emotional injury from a crime.* Compensation for lost wages or income incurred within the first two weeks following the crime shall be paid for lost wages incurred by to an eligible crime victim within two weeks after injury from crime or without an authorized disability statement. Compensation for lost wages or income incurred within the first 30 days following the crime may be paid to an eligible survivor of a homicide deceased

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victim for up to five days within two weeks after the death of a victim without an authorized disability statement. Compensation for lost wages may be paid to the spouse, child, or parent of the homicide victim for up to one month without a disability statement as determined reasonable by the program. A victim or survivor of a homicide victim seeking lost wages for a longer period of time longer than two weeks, or an eligible survivor seeking lost wages for longer than 30 days under Iowa Code section 915.86(10), shall submit a disability statement from a licensed ~~physician~~ medical provider for a physical injury or an injury related to mental health, or from a licensed mental health provider as included in ~~paragraph~~ paragraphs 9.35(3) "a" through "d" for an injury related to mental health. Compensation shall be made for lost wages or income under the following circumstances:

a. ~~Victim injured~~ Lost income. Compensation may be paid when the victim ~~cannot~~ misses work due to physical or emotional injury from crime.

b. Lost hire income. Compensation may be paid when the victim has been hired by an employer but is unable to begin employment because of injury due to the crime, until released to work. Required documentation includes a signed affidavit by the employer.

c. ~~Employment terminated~~ ceases. Compensation may be paid when the ~~victim is terminated from~~ victim's employment ceases as a result of crime-related injuries, until released to seek work.

d. Unemployment eligible. Compensation may be paid for the difference between the victim's ~~gross wage~~ lost wages or income and the unemployment benefit when the victim is terminated from employment because of injury from crime and is found to be eligible for unemployment benefits.

e. Unemployment ineligibility. Compensation may be paid for the amount of the victim's unemployment benefit when the victim is rendered ineligible for unemployment benefits because of injury from the crime, until the victim is released to work.

f. ~~Worker~~ Workers' compensation benefit eligible. Compensation may be paid for the difference between the victim's gross wage and the ~~worker~~ workers' compensation benefit when the victim is unable to work because of injury from crime and is found to be eligible for ~~worker~~ workers' compensation benefits.

g. Medical and counseling appointments. Compensation may be paid to a primary victim, the parent or guardian of a minor aged primary victim, or the caretaker of a dependent adult primary victim for wages lost due to medical care or counseling appointments for the victim.

ITEM 16. Amend renumbered subrule 9.35(9) as follows:

9.35(9) Lost wages or income during for cooperation in an investigation and prosecution. Compensation may be paid for lost wages or income incurred by an eligible primary victim, survivor of a ~~homicide~~ deceased victim as described in Iowa Code section 915.86(8), parent or guardian of a minor aged primary victim, or caretaker of a dependent primary victim while cooperating with the investigation and prosecution of the crime including, but not limited to, participation at identification sessions, arraignment, deposition, plea agreement meetings, trial, sentencing, parole and probation hearings, and sexually violent predator civil commitment proceedings.

ITEM 17. Adopt the following new subrule 9.35(10):

9.35(10) Lost wages or income due to health or safety concerns related to maintaining employment. Compensation for lost wages or income shall be paid to an eligible crime victim for up to 30 days following an event that compromises the health or safety of the victim including, but not limited to, the approved crime, stalking, or harassment. Compensation for lost wages or income beyond 30 days may be extended at the discretion of the program administrator, the director, or the board.

ITEM 18. Renumber subrules **9.35(12)** to **9.35(15)** as **9.35(11)** to **9.35(14)**.

ITEM 19. Amend renumbered subrule 9.35(11) as follows:

9.35(11) Residential crime scene cleanup. Compensation may be paid for the reasonable costs of an eligible victim or applicant for cleaning a residential crime scene, which includes a home, or a private vehicle if the vehicle serves as the primary residence, in which the crime was committed. Cleaning a residential crime scene means to remove, or attempt to remove, from the crime scene blood, dirt, stains, or other debris caused by the crime or the processing of the crime scene. Compensation shall be paid for

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the reasonable out-of-pocket cost of cleaning supplies, equipment rental, labor, and the value of property which is essential to the victim and which is held by law enforcement for evidentiary purposes. Cleaning a residential crime scene does not include replacement or repair of property damaged in the crime.

ITEM 20. Amend renumbered subrule 9.35(13) as follows:

9.35(13) *Clothing and bedding.* Compensation may be paid for clothing and bedding held as evidence by law enforcement ~~and not returned to the victim~~. Compensation shall not be made for the ~~clothing~~ of a deceased victim victim's clothing which is held as evidence.

ITEM 21. Amend renumbered subrule 9.35(14) as follows:

9.35(14) *Funeral, ~~and burial,~~ and memorial expenses.* Compensation may be paid for reasonable expenses incurred for the funeral and burial or cremation for an eligible crime victim. The following expenses may be paid up to the maximum expense established in Iowa Code section ~~915.86(4)~~ 915.86(6):

a. Funeral service. Compensation may be paid for expenses related to funeral and burial or cremation preparation and services.

b. Burial plot and vessel. Compensation may be paid for the cost of a burial plot, vault, casket, urn, or other permissible vessel.

c. Burial effects. Compensation may be paid for miscellaneous funeral and burial expenses including, but not limited to, flowers, burial clothing for the victim, transportation of the victim's body, and travel and lodging expenses for survivors of the ~~homicide~~ deceased victim as described in Iowa Code section ~~915.87(8)~~ 915.80(7) with priority for the surviving spouse, children, and parents of the victim. Documentation must be provided for all miscellaneous funeral and burial expenses.

d. Memorial. Reasonable memorial costs may be paid for commemorating the memory of a deceased victim, including but not limited to a structure or public or private event.

ITEM 22. Adopt the following **new** subrules 9.35(15) to 9.35(17):

9.35(15) *Dependent care.* Compensation may be paid for reasonable costs of dependent care incurred by a primary victim, the parent or caretaker of a dependent primary victim, or the survivor of a deceased victim, to attend medical or counseling appointments or criminal justice proceedings. Dependent care expenses may be paid for the parent or caretaker of a primary victim to attend the parent's or caretaker's own medical or mental health appointments.

Compensation may include, but is not limited to, expenses for care provided by a day care center, private residential childcare, relative who is not a tax dependent, before- or after- school program, custodial elder care, adult day care center, nanny, or au pair. Expenses may be paid up to the maximum benefit established in Iowa Code section 915.86(13).

9.35(16) *Residential security.* Compensation may be paid for reasonable costs incurred by a victim, the victim's parent or caretaker, or the survivor of a deceased victim to install new residential security items, or to replace inadequate or damaged residential security items, not to exceed the maximum expense established in Iowa Code section 915.86(14).

Compensation may be paid for doors, locks, windows, security cameras, security systems or devices, or other reasonable expenses that provide for the safety of the victim or the security of the residence.

9.35(17) *Transportation and lodging expenses.* Compensation may be paid for reasonable transportation and lodging expenses incurred by the victim, secondary victim, parent or guardian of the victim, or the survivor of a deceased victim for medical and counseling services, criminal justice proceedings, or funeral activities, not to exceed the benefit limit established in Iowa Code section 915.86(15).

a. Privately owned vehicle. Use of a privately owned vehicle shall be paid at the per-mile rate established by the department of administrative services for state employees using a private vehicle for state business.

b. Commercial vehicle transportation shall be paid at the cost incurred by, or on behalf of, an eligible applicant.

ITEM 23. Amend rule 61—9.83(915) as follows:

61—9.83(915) Computation of sexual abuse examination payments.

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9.83(1) *Payment for examination.* The department shall make payment for sexual abuse examinations, as appropriate, for services including, but not limited to:

a. Examiner's fee ~~for collection of:~~

- (1) ~~Patient's~~ To collect the patient's medical history;
- (2) ~~Physical~~ To conduct a physical examination;
- (3) ~~Collection of~~ To collect laboratory specimens;
- (4) ~~Return visits to~~ To test for sexually transmitted disease; diseases.
- (5) ~~b.~~ Treatment for the prevention of sexually transmitted disease.

b. c. Examination facility, including:

- (1) Emergency room, clinic room or office room fee;
- (2) Pelvic tray and medically required supplies;
- (3) Additional facility or equipment fees which the department determines to be reasonable.

e. d. Laboratory collection and processing of specimens for: criminal evidence; sexually transmitted disease; and pregnancy testing.

9.83(2) *Provider payment.* The department will pay up to \$300 for the examination facility and up to \$200 for examiner fees. Any charges in excess of these amounts will require additional documentation from the provider. The department shall set reasonable payment limits for treatment, including prescription drugs, for the prevention of sexually transmitted diseases and for laboratory collection and processing of specimens. The crime victim assistance program will pay only those charges determined by the department to be reasonable and fair.

9.83(3) *Examination kits available at no cost.* The Iowa department of public safety division of criminal investigation makes sexual abuse examination kits available to health care providers at no cost.

ITEM 24. Amend rule 61—9.84(915) as follows:

61—9.84(915) *Victim responsibility for payment.* A victim of sexual abuse is not responsible for the payment of the costs of a sexual abuse examination determined to be eligible for payment by the department. A medical provider must not submit any costs associated with a sexual abuse examination to a victim's insurance or to the sexual abuse victim. A medical provider ~~shall~~ must not submit any remaining balance to the sexual abuse victim after the sexual abuse examination program has determined payment to the sexual abuse victim.

[Filed 7/8/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4573C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to FIP and EBT cards

The Human Services Department hereby amends Chapter 40, "Application for Aid," and Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 234.6 and 239B.4(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 234.6 and 239B.4(6).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

These amendments remove obsolete form references from the Family Investment Program (FIP) rules in Chapter 40. The amendments also remove outdated and unnecessary rules from Chapter 65 related to Electronic Benefits Transfer (EBT) for food assistance.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4439C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—40.28(239B) as follows:

441—40.28(239B) Referral for investigation. The department may refer questionable cases to the department of inspections and appeals for further investigation. ~~Referrals shall be made using Form 470-2998, Referral for Front End Investigation.~~

This rule is intended to implement Iowa Code section 239B.5.

ITEM 2. Amend rule 441—65.4(234) as follows:

441—65.4(234) Issuance. The department shall issue food assistance benefits by electronic benefits transfer (EBT) cards.

65.4(1) Schedule. Benefits for ongoing certifications shall be made available to households on a staggered basis during the first ten calendar days of each month.

65.4(2) EBT cards. EBT cards shall be mailed to ~~clients~~ recipients except in the event of a disaster. Disaster EBT cards will be distributed through the local office.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a.—*Personal identification number selection.* When a client receives the EBT card, the client shall call the automated response unit to select a personal identification number. The client must provide proof of identity before selecting the personal identification number.~~

~~b.—*Replacement of EBT cards.* EBT cards shall be replaced within five business days after the client notifies the EBT customer service help desk of the need for replacement.~~

~~65.4(3) *Client training.* Written client training materials may either be mailed to clients or be handed to the clients if they visit the local office. Clients will be given in-person training upon request or if they are identified as having problems using the EBT system.~~

~~65.4(4) *Point-of-sale terminals.* Point-of-sale terminals allow clients to access food assistance benefits and retailers to redeem food sales.~~

~~a.—*Redemption threshold.* The department will not place point-of-sale terminals with any authorized retailer with less than \$100 in monthly food assistance redemptions. Those retailers may participate through a manual voucher process described in paragraph 65.4(5) “b.”~~

~~b.—*Shipping.* Government-supplied point-of-sale terminals may be shipped to authorized retailers along with instructions for installation of the equipment and training materials. A toll-free number is available for retailers needing assistance.~~

~~c.—*Replacement.* The department shall ensure that government-supplied point-of-sale terminals that are not operating properly are repaired or replaced within 48 hours.~~

~~65.4(5) *Voucher processing.*~~

~~a.—*Emergency vouchers.* Authorized retailers may use an emergency manual voucher if they cannot access the EBT host system.~~

~~(1) The client shall sign Form 470-2827, POS Voucher, to authorize a debit of the household’s EBT account.~~

~~(2) The retailer shall clear the manual transaction as soon as the host system becomes operational.~~

~~(3) The retailer shall receive a payment of the actual amount of the voucher, up to a maximum of \$50.~~

~~b.—*Manual vouchers.* Authorized retailers without point-of-sale terminals and retailers whose equipment fails may use a manual voucher. If a manual voucher is used:~~

~~(1) The client shall sign Form 470-3980, Offline Food Stamp Voucher: Non-Equipped Retailer (No POS), to authorize a debit of the household’s EBT account.~~

~~(2) The retailer shall obtain a telephone authorization from the EBT retailer help desk before finalizing the purchase.~~

~~(3) The retailer shall clear the manual transaction within 30 days.~~

~~(4) If there are insufficient funds in the client’s account when the voucher is presented, the client’s account shall be debited for the amount in the account. The remainder of the amount owed shall be deducted from benefits issued for subsequent months. If the next month’s allotment is less than \$50, the deduction shall not exceed \$10.~~

[Filed 7/11/19, effective 9/4/19]

[Published 7/31/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4574C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to MEPD program premium amounts

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4442C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making action is adopted:

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

(3) Premiums shall be assessed as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$34
165% of Federal Poverty Level	\$47
180% of Federal Poverty Level	\$56
200% of Federal Poverty Level	\$66
225% of Federal Poverty Level	\$77
250% of Federal Poverty Level	\$89
300% of Federal Poverty Level	\$112
350% of Federal Poverty Level	\$137
400% of Federal Poverty Level	\$161
450% of Federal Poverty Level	\$186
550% of Federal Poverty Level	\$232
650% of Federal Poverty Level	\$280
750% of Federal Poverty Level	\$329
850% of Federal Poverty Level	\$389
1000% of Federal Poverty Level	\$467
1150% of Federal Poverty Level	\$547
1300% of Federal Poverty Level	\$631
1480% of Federal Poverty Level	\$729
1550% of Federal Poverty Level	\$768

[Filed 7/11/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4575C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to customized wheelchairs

The Human Services Department hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

These amendments provide a definition of a customized wheelchair for all Medicaid members and providers. The amendments also align Iowa's Medicaid definition of a customized wheelchair with the definition for the Medicare program provided by the Centers for Medicare and Medicaid Services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4444C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa of less than \$100,000 annually or \$500,000 over five years. Clearly defining a customized wheelchair will allow for standardized billing and may prevent Iowa Medicaid from paying separately for items that should have been part of standard coverage. This could result in Medicaid savings, but the impact is not expected to be significant.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind subparagraph **78.10(2)“a”(4)**.

ITEM 2. Adopt the following **new** paragraph **78.10(2)“d”**:

d. Wheelchairs, wheelchair accessories, and wheelchair modifications are covered when they are medically necessary for mobility within the home, nursing facility, or intermediate care facility. Wheelchairs are defined as:

(1) Standard manual wheelchairs. Coverage of a standard manual wheelchair includes the following:

1. Complete set of tires/wheels and casters, any type;
2. Hand rims with or without projections;
3. Weight-specific components required by the patient-weight capacity of the wheelchair;
4. Elevating legrest, lower extension tube and upper hanger bracket;
5. Armrest (detachable, non-adjustable or adjustable) with or without arm pad;
6. Footrest (swingaway, detachable), including lower extension tube(s) and upper hanger bracket;
7. Standard size footplates;
8. Wheelchair bearings;
9. Caster fork, replacement only; and

HUMAN SERVICES DEPARTMENT[441](cont'd)

10. All labor charges involved in the assembly of the wheelchair (including, but not limited to: front caster assembly, rear wheel assembly, ratchet assembly, wheel lock assembly, footrest assembly).

(2) Standard manual wheelchair accessories that are separately billable and require prior authorization include the following:

1. Headrest extensions;
2. One-arm drive attachments;
3. Positioning accessories;
4. Specialized skin protection seat and back cushions; and
5. Anti-rollback devices.

(3) Standard power wheelchair. Coverage of a standard power wheelchair requires prior authorization and includes the following:

1. Lap belt or safety belt;
2. Battery charger, single mode;
3. Complete set of tires/wheels and casters, any type;
4. Legrests (fixed, swingaway, or detachable non-elevation legrests with or without calf pad);
5. Footrests/foot platform (fixed, swingaway, detachable footrests or a foot platform without angle adjustment, single adjustable footplate);
6. Armrests (fixed, swingaway, detachable non-adjustable height armrests with arm pad provided);
7. Any weight-specific components (braces, bars, upholstery, brackets, motors, gears, etc.) as required by patient-weight capacity of the wheelchair;
8. Any seat width and depth. For power wheelchairs with a sling/solid seat/back, the following may be billed separately:

- For standard duty, seat width and/or depth greater than 20 inches;
- For heavy duty, seat width and/or depth greater than 22 inches;
- For very heavy duty, seat width and/or depth greater than 24 inches;
- EXCEPTION: For extra heavy duty, there is no separate billing;

9. Any back width. For power wheelchairs with a sling/solid seat/back, the following may be billed separately:

- For standard duty, seat width and/or depth greater than 20 inches;
- For heavy duty, seat width and/or depth greater than 22 inches;
- For very heavy duty, seat width and/or depth greater than 24 inches;
- EXCEPTION: For extra heavy duty, there is no separate billing;

10. Non-expandable controller or standard proportional joystick (integrated or remote); and

11. All labor charges involved in the assembly of the wheelchair (including, but not limited to: front caster assembly, rear wheel assembly, ratchet assembly, wheel lock assembly, footrest assembly).

(4) Standard power wheelchair accessories that are billed separately and require a prior authorization include the following:

1. Shoulder harness/straps or chest straps/vest;
2. Elevating legrest;
3. Angle adjustable footplates;
4. Adjustable height armrests; and
5. Expandable controller or nonstandard joystick (i.e., non-proportional or mini, compact or short throw proportional, or other alternative control device).

(5) Customized items are payable with a prior authorization, in accordance with 42 CFR §414.224.

ITEM 3. Amend paragraph **78.10(5)“o”** as follows:

o. Customized wheelchairs for members who are residents of nursing facilities, subject to the requirements of ~~78.10(2)“a”(4).~~ 78.10(2)“d.”

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend paragraph **78.28(1)“r”** as follows:
 r. Customized wheelchairs ~~for members who are residents of nursing facilities~~, subject to the requirements of ~~78.10(2)“a”(4)~~. 78.10(2)“d.”

[Filed 7/11/19, effective 9/4/19]

[Published 7/31/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4576C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to child support recovery forms

The Human Services Department hereby amends Chapter 97, “Collection Services Center,” Chapter 98, “Support Enforcement Services,” and Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

These amendments remove references to obsolete form numbers and names.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4441C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

HUMAN SERVICES DEPARTMENT[441](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **97.6(5)“c”** as follows:

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on Form 470-3972, Electronic Support Payments, that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return Form 470-3972 to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. ~~When the collection services center reviews an exemption, it shall issue Form 470-3973, Review of Electronic Transfer Exemption, to the obligee for completion.~~ The exemptions available under this paragraph are:

(1) to (5) No change.

ITEM 2. Amend paragraph **98.121(2)“b”** as follows:

b. *Notification issued by the child support recovery unit.* When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, the child support recovery unit shall issue ~~Form 470-3412, Legal Notice of Referral and Surcharge,~~ a notice to the obligor. The notice shall be sent by regular mail to the obligor's last-known address.

ITEM 3. Amend paragraph **98.121(5)“c”** as follows:

c. The child support recovery unit shall file ~~Form 470-3411, Notice of Surcharge,~~ a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed.

ITEM 4. Amend subrule 99.63(1) as follows:

99.63(1) *Notice of right to request review.* The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification shall be provided on Form 470-0188, Application For Nonassistance Support Services, or Form 470-1981, Notice of Continued Support Services, ~~Form 470-3078, Availability of Review and Adjustment Services,~~ or through another printed or electronic format.

[Filed 7/11/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4577C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to residential care facilities

The Inspections and Appeals Department hereby amends Chapter 63, “Residential Care Facility—Three- to Five-Bed Specialized License,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.14.

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(5) requires the Department to establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with an intellectual disability, chronic mental illness, developmental disability, or brain injury and which contain five or fewer residents. Iowa Code section 135C.2(5) also requires the Department to include a provision requiring such a facility to be located in an area zoned for single- or multiple-family housing or in an unincorporated area and to be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. These amendments adopt this provision.

These amendments require facility personnel to be available and responsive to residents' needs while on duty.

These amendments remove the requirement that a person successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course. The Department-approved medication aide course was previously revised, which rendered this requirement unnecessary, and the amendments align with current Department practice.

These amendments remove the requirement that facilities within the special classification abide by Chapter 60, "Minimum Physical Standards for Residential Care Facilities." Facilities within this special classification have not previously had to abide by Chapter 60, and these amendments align the rules with current Department practice.

Finally, these amendments update the language used in expressing bedroom requirements to maintain consistency with the Department's rules related to other types of facilities that are substantively identical. The amendments do not substantively change the bedroom requirements for this special classification.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4467C**. Two sets of comments were received. One commenter expressed concern about the removal of the requirement that a person complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course.

In 2016, this requirement was removed from the chapters for other types of residential care facilities (see **ARC 2643C**, IAB 8/3/16). Eliminating this requirement permits an individual to become trained as a certified medication aide (CMA) without first being trained as a certified nurse aide (CNA), thereby allowing residential care facilities, particularly those in rural areas, to more easily hire CMAs. In order to become a CMA, an individual must complete a 60-hour course, available at Iowa community colleges, consisting of classroom study and clinical experience.

A second commenter requested that the Department not amend paragraph 63.8(5)"b" to require personnel to be awake at all times while on duty. The commenter cited differences related to size and physical environment of the three- to five-bed residential care facilities as compared to other types of residential care facilities. Specifically, the commenter noted that these facilities are familylike, with bedrooms located in areas of the home where staff can more easily monitor for safety concerns than would be possible at larger residential care facilities. In addition, the commenter noted that difficulties in filling overnight and weekend staff positions would be increased were this paragraph to be amended as proposed in the Notice.

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

One change from the Notice was made based on the comments received. Paragraph 63.8(5)“b” now provides that personnel must be available and responsive to residents’ needs while on duty. This change allows licensees some flexibility in establishing policies regarding 24-hour coverage by personnel.

Adoption of Rule Making

The State Board of Health initially reviewed the proposed amendments at its May 8, 2019, meeting and approved these amendments at its July 10, 2019, meeting. This rule making was adopted by the Department on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **63.3(1)“b”** as follows:

b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—~~Chapters Chapter 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.~~

ITEM 2. Amend paragraph **63.8(5)“b”** as follows:

b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be ~~up and dressed when residents are awake~~ available and responsive to residents’ needs at all times while on duty. (I, II, III)

ITEM 3. Amend paragraph **63.16(3)“d”** as follows:

d. Prior to taking a department-approved medication aide course, the person shall:

~~(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)~~

~~(2) Have~~ have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

ITEM 4. Adopt the following **new** paragraph **63.35(1)“d”**:

d. The facility shall be located in an area zoned for single- or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

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

ITEM 5. Amend paragraph **63.35(4)“a”** as follows:

a. Each resident shall be provided with a ~~standard, single, or twin~~ twin-sized or larger bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4578C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to the requirement for pharmacy benefits managers to file annual reports

The Insurance Division hereby amends Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 510.9 and 510B.3 and 2019 Iowa Acts, Senate File 563, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 510 and 510B and 2019 Iowa Acts, Senate File 563.

Purpose and Summary

The Insurance Division (Division) amends current rules in and adds a new rule to Chapter 59 to implement 2019 Iowa Acts, Senate File 563, which requires pharmacy benefits managers to file with the Insurance Commissioner an annual report related to rebates and administrative fees received from pharmaceutical companies and the extent to which those rebates and administrative fees are passed on to the insurance companies for which the pharmacy benefits managers provide services. The legislation, which will be codified as Iowa Code chapter 510C, was signed by the Governor on May 8, 2019, and became effective July 1, 2019.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4482C**. A public hearing was held on June 27, 2019, at 10 a.m. in the Division's offices on the fourth floor of Two Ruan Center, 601 Locust Street, Des Moines, Iowa. Three individuals attended the public hearing, and several individuals participated by telephone.

Two comments were received at the public hearing. The first commenter supported this rule making, stating it would create needed transparency, but also encouraged the Division to continue to evaluate other ways to rein in anticompetitive practices of pharmacy benefits managers (PBMs). In response to this comment, the Division notes that the statute under which the rule making is adopted is limited and does not permit additional requirements. The second commenter remarked that PBMs make drug coverage more affordable for plan sponsors. The commenter also requested clarification as to whether the data collected would be only for regulated health plans located in Iowa and whether the reported data would have some type of Iowa nexus. In response to each of these two questions, the Division states that neither the definitions nor the scope of the statute supports either of those interpretations.

INSURANCE DIVISION[191](cont'd)

A third commenter expressed support for this rule making at the Administrative Rules Review Committee meeting held on July 9, 2019.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by Doug Ommen, Iowa Insurance Commissioner, on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 191—59.1(510B) as follows:

191—59.1(510B,510C) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code ~~chapter~~ chapters 510, 510B and 510C (2019 Iowa Acts, Senate File 563) relating to the regulation of pharmacy benefits managers.

ITEM 2. Renumber rule **191—59.11(505,507,507B,510,510B,514L)** as **191—59.12(505,507,507B,510,510B,514L)**.

ITEM 3. Adopt the following **new** rule 191—59.11(510B,510C):

191—59.11(510B,510C) Pharmacy benefits manager annual report.

59.11(1) Definitions. In addition to the definitions set forth in rule 191—59.2(510B), the definitions of Iowa Code section 510C.1 (2019 Iowa Acts, Senate File 563, section 1) shall apply to this rule.

59.11(2) Filing of annual report. In addition to submitting the third-party administrator annual report required under rule 191—58.11(510), each pharmacy benefits manager shall submit to the commissioner on or before February 15 of each year the annual report required by Iowa Code section 510C.2 (2019 Iowa Acts, Senate File 563, section 2) (PBM annual report). The pharmacy benefits manager shall follow the instructions and use the online submission form provided on the Iowa insurance division's website (iid.iowa.gov) to file the PBM annual report.

59.11(3) Verification. At least two officers of the pharmacy benefits manager shall certify in writing that they verified the accuracy of the PBM annual report.

59.11(4) Electronic filing. Each pharmacy benefits manager shall submit the PBM annual report electronically as set forth in the instructions, unless otherwise specifically authorized by the commissioner.

INSURANCE DIVISION[191](cont'd)

59.11(5) Public access. The commissioner shall publish on the Iowa insurance division's website (iid.iowa.gov) the nonconfidential information received in the PBM annual report.

59.11(6) Completeness of PBM annual report. All information required by the commissioner must be submitted before the PBM annual report shall be considered complete.

59.11(7) Penalties. A pharmacy benefits manager that fails to timely submit to the commissioner a complete PBM annual report shall pay a late fee of \$100. If a pharmacy benefits manager fails to submit a complete PBM annual report by May 15, the pharmacy benefits manager shall be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

ITEM 4. Amend renumbered rule 191—59.12(505,507,507B,510,510B,514L) as follows:

191—59.12(505,507,507B,510,510B,510C,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510, ~~and 510B and 510C~~ (2019 Iowa Acts, Senate File 563), or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510, ~~and 510B and 510C~~ (2019 Iowa Acts, Senate File 563), shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

ITEM 5. Amend **191—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 507B, 510, 510B, 510C (2019 Iowa Acts, Senate File 563) and 514L.

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4579C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacist licensure

The Board of Pharmacy hereby amends Chapter 2, "Pharmacist Licenses," Chapter 4, "Pharmacist-Interns," Chapter 25, "Child Support Noncompliance," Chapter 31, "Student Loan Default or Noncompliance with Agreement for Payment of Obligation," and Chapter 32, "Nonpayment of State Debt," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.10, 147.11, 147.34, 147.36, 147.44, 147.53, 147.76, 147.80, 155A.6, 155A.9, 155A.11, 155A.40, 155A.44 and 272C.2 to 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2 to 147.5, 147.9 to 147.11, 147.34, 147.36, 147.44, 147.49, 147.53, 147.55, 147.76, 147.80, 155A.6 to 155A.9, 155A.11, 155A.12, 155A.19, 155A.40, 155A.44, 155A.46 and 272C.2 to 272C.4.

Purpose and Summary

The Board conducted an overall five-year review of Chapter 2 pursuant to Iowa Code section 17A.7(2). The resulting amendments include:

- Addition of rules identifying the purpose and scope and definitions for the chapter, consistent with other chapters of Board rules;

PHARMACY BOARD[657](cont'd)

- Addition of the word “nonrefundable” as it relates to the submission of fees, consistent with language added in other Board rules;
- Updates to the licensure application, examination eligibility, and license transfer processes through the National Association of Boards of Pharmacy, to be consistent with current procedures;
- Updates to the licensure application process for a foreign pharmacy graduate through the Foreign Pharmacy Graduate Examination Committee, to be consistent with current procedures;
- Removal of language relating to a surcharge pursuant to 657—Chapter 30, because the Board discontinued assessing a surcharge several years ago;
- Addition of a fee for a written license verification;
- Expansion of the options for foreign pharmacy graduates to fulfill internship requirements at Iowa-licensed pharmacies to include pharmacies other than community or hospital pharmacies;
- Removal of the option for a foreign pharmacy graduate to petition the Board for credit toward internship resulting from the pharmacy graduate’s pharmacy experience in a foreign country;
- Updates to language relating to the continuing education requirements for pharmacists, to be consistent with more commonly used terminology;
- Addition of an exemption for continuing education requirements for pharmacists who are not living or practicing in Iowa but who are licensed and practicing in another state, as well as for active duty military personnel;
- Addition of a criminal history record check for pharmacist licensure candidates prior to initial licensure;
- Addition of a requirement that a pharmacist notify the Board within 30 days of any criminal conviction, plea, or disciplinary action;
- Removal of the requirement that a pharmacist notify the Board in advance of the pharmacist’s intent to complete a continuing professional development portfolio;
- Updates to the language relating to the submission of a pharmacist-intern’s notarized affidavit of internship to the Board within six months of graduation;
- Updates to cross references where appropriate; and
- Other nonsubstantive changes and rearrangement of rules or subrules to provide consistency and clarification.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4391C**. The Board received one comment from the Iowa Pharmacy Association seeking clarification about the Board’s intent relating to experiential internship of foreign pharmacy graduates but did not suggest any proposed changes to the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PHARMACY BOARD[657](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Renumber existing rules **657—2.1(147,155A)** and **657—2.2(155A)** as **657—2.4(147,155A)** and **657—2.5(155A)**.

ITEM 2. Adopt the following **new** rule 657—2.1(147,155A):

657—2.1(147,155A) Purpose and scope. The purpose of this chapter is to set the minimum standards and application process for obtaining and maintaining pharmacist licensure in this state. The rules shall apply to pharmacists who seek or hold pharmacist licensure in Iowa.

ITEM 3. Adopt the following **new** rule 657—2.2(147,155A):

657—2.2(147,155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Board*” means the board of pharmacy.

“*Continuing pharmacy education*” or “*CPE*” means a structured educational activity that is applicable to the practice of pharmacy, that promotes problem solving and critical thinking, and that is designed or intended to support the continuing development of pharmacists to maintain and enhance their competence in the practice of pharmacy.

“*Continuing professional development*” or “*CPD*” means a self-directed, ongoing, systematic, and outcomes-focused approach to learning and professional development including active participation in learning activities that assist a pharmacist in developing and maintaining continuing competence in the practice of pharmacy, enhancing the pharmacist's professional practice, and supporting achievement of the pharmacist's career goals.

“*CPE monitor*” means the program administered by NABP to collect and store CPE data for pharmacy professionals.

“*NABP*” means the National Association of Boards of Pharmacy.

“*Renewal period*” means the 27-month period commencing April 1 prior to the previous license expiration and ending June 30, the date of current license expiration.

ITEM 4. Rescind rule 657—2.3(147,155A) and adopt the following **new** rule in lieu thereof:

657—2.3(147,155A) License and criminal history record check required.

2.3(1) License required. Prior to engaging in the practice of pharmacy in Iowa, a pharmacist shall have an active Iowa pharmacist license pursuant to rule 657—2.4(147,155A), 657—2.8(155A), or 657—2.9(147,155A).

2.3(2) Criminal history record check required. Upon receipt of an initial licensure application pursuant to subrule 2.3(1), the board shall provide a fingerprint packet to the applicant, who shall submit to the board the completed fingerprint packet and a signed waiver form to facilitate a national criminal history background check of the applicant. The cost of the evaluation of the fingerprint packet and the Iowa division of criminal investigation and United States Federal Bureau of Investigation criminal history background checks will be assessed to the applicant.

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ITEM 5. Renumber existing rules **657—2.4(155A)** and **657—2.6(147)** as **657—2.6(155A)** and **657—2.7(147)**.

ITEM 6. Amend renumbered rule 657—2.4(147,155A) as follows:

657—2.4(147,155A) Licensure by examination. The board of pharmacy, in conjunction with the ~~National Association of Boards of Pharmacy (NABP)~~ NABP, shall provide for the administration of pharmacist licensure examinations.

2.4(1) and **2.4(2)** No change.

2.4(3) Examination results. Examination scores and original license certificates shall be provided as soon after the examinations as possible.

ITEM 7. Rescind existing rules **657—2.5(155A)** and **657—2.7(147)**.

ITEM 8. Amend renumbered rule 657—2.5(155A) as follows:

657—2.5(155A) Application for examination—requirements. Application for examination shall be on forms provided by the board, and all requested information shall be provided on or with such application. An applicant shall ~~complete the NABP Computerized Examination Registration Form to additionally apply for registration eligibility~~ to take the NAPLEX and the Multistate Pharmacy Jurisprudence Examination (MPJE), Iowa Edition, at nabp.pharmacy/programs. ~~An applicant shall complete an additional registration form to apply for registration to take the MPJE, Iowa Edition.~~

2.5(1) and **2.5(2)** No change.

2.5(3) Fee. The nonrefundable fee for examination shall consist of the biennial license fee, a processing fee, and an examination registration fee.

a. The biennial license fee shall be \$180, and the processing fee shall be \$72. The nonrefundable biennial license fee and processing fee shall be submitted to the board with the application for licensure by examination.

b. The examination registration fee shall be an amount determined by NABP and submitted pursuant to NABP direction at nabp.pharmacy/programs when submitting an application for eligibility to take the NAPLEX; the MPJE, Iowa Edition; or both.

2.5(4) College graduation certification. Each applicant, with the exception of a foreign pharmacy graduate who shall comply with rule 657—2.10(155A), shall furnish a certificate from a recognized college of pharmacy stating that the applicant has successfully graduated from a college of pharmacy with either a bachelor of science degree in pharmacy or a doctor of pharmacy degree. Certification shall be completed by an individual authorized by the college on a form provided by the board. A recognized college of pharmacy is a United States institution that meets the minimum standards of the Accreditation Council for Pharmacy Education and appears on the list of accredited colleges of pharmacy published by the council as of July 1 of each year.

2.5(5) Foreign pharmacy graduates. In addition to the requirements of this rule, except as provided in subrule 2.5(4), an applicant who is a graduate of a school or college of pharmacy located outside the United States that has not been recognized and approved by the board shall obtain certification by the Foreign Pharmacy Graduate Examination Committee (FPGEC) pursuant to rule 657—2.10(155A).

ITEM 9. Amend renumbered rule 657—2.6(155A) as follows:

657—2.6(155A) Internship requirements. Each applicant, except for an applicant for license transfer, shall furnish to the board evidence certifying completion of satisfactory internship experience. The board will not certify an applicant eligible to take any of the examination components prior to receipt of evidence of satisfactory completion of internship experience. Internship experience shall comply with the requirements in 657—Chapter 4. Internship experience completed in compliance with the requirements in 657—Chapter 4 shall be valid for application for licensure in Iowa by examination or score transfer for a period of three years following graduation from an approved college of pharmacy or as otherwise approved by the board on a case-by-case basis.

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ITEM 10. Amend renumbered rule 657—2.7(147) as follows:

657—2.7(147) Reexamination applications and fees. A candidate who fails to pass either the NAPLEX or the MPJE, Iowa Edition, once shall be allowed to schedule a time to retake the examination as provided in this rule. To ensure the integrity of the examinations, no waiver or variance of the specified waiting period between reexaminations will be granted.

2.7(1) to 2.7(3) No change.

2.7(4) Applications and fees. Each applicant for reexamination shall file an application on forms provided by the board. A nonrefundable processing fee of \$36 will be charged for each NAPLEX or MPJE, Iowa Edition, reexamination and shall be paid to the board as ~~provided in subrule 2.3(1)~~. In addition, ~~candidates will be required to~~ the applicant shall complete the appropriate examination registration application as provided in rule 657—2.2(155A) and to pay to NABP the registration and administration fees for each examination as provided in subrule 2.3(2) application process for reexamination and pay the required fee for reexamination as determined by NABP at nabp.pharmacy/programs. All applications, registration forms, and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).

ITEM 11. Amend rule 657—2.8(155A) as follows:

657—2.8(155A) Transfer of examination scores Licensure by score transfer. The board of pharmacy participates in the NAPLEX score transfer program offered by NABP. This program allows candidates for pharmacist licensure to take the standardized NAPLEX in one state and have the score from that examination transferred to other participant states in which the candidate is seeking licensure. MPJE scores cannot be transferred.

2.8(1) ~~Score transfer application~~ Application for score transfer. ~~The NAPLEX Score Transfer Form must be completed and submitted with the proper fee to NABP prior to, or postmarked no later than, the date on which the candidate takes the NAPLEX. The fee to NABP for score transfer is determined by NABP. Payment shall be made in the form of a money order or certified check payable to the National Association of Boards of Pharmacy. NABP makes no refunds of score transfer fees. To participate in the NABP score transfer program, an applicant shall complete all required application requirements and submit required fees as determined by NABP at nabp.pharmacy/programs.~~

2.8(2) ~~Requirements and deadline~~ Score transfer candidates ~~Applicants for licensure by score transfer shall meet the requirements established in rules 657—2.1(147,155A) 657—2.4(147,155A) through 657—2.5(155A) 657—2.6(155A) within 12 months of the date of score transfer. No refund of fees paid to the board will be made for failure to complete all licensure requirements within this one-year period.~~

2.8(3) ~~Fees~~. In addition to the score transfer fee identified in subrule 2.8(1), fees for licensure pursuant to the NABP score transfer program shall consist of the fees identified in ~~rule 657—2.3(147,155A) excluding the NAPLEX examination registration and administration fees, paragraph 2.5(3) “a.”~~

ITEM 12. Amend rule 657—2.9(147,155A) as follows:

657—2.9(147,155A) Licensure by license transfer/reciprocity transfer. An applicant for license ~~transfer/reciprocity transfer~~ must be a pharmacist licensed by examination in a state or territory of the United States ~~with which Iowa has a reciprocal agreement~~, and the license by examination upon which the transfer is based must be in good standing at the time of the application and license transfer. All candidates shall take and pass the MPJE, Iowa Edition, as provided in subrule ~~2.1(1)~~ 2.4(1). Any candidate who fails to pass the examination shall be eligible for reexamination as provided in rule ~~657—2.6(147)~~ 657—2.7(147).

2.9(1) Eligibility. Each applicant for license transfer to this state who obtains the applicant's original license after January 1, 1980, must have passed the NABP Licensure Examination (NABPLEX), the NAPLEX, or an equivalent examination as determined by NABP.

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~~a. Preliminary application~~ Application for license transfer. Each applicant for license transfer/reciprocity transfer to Iowa shall complete and submit to NABP, with the appropriate fee as indicated on the application, the NABP Preliminary Application for Transfer of Pharmaceutic Licensure. Refunds of fees paid to NABP shall be at the discretion of NABP the online application and pay the required fee as determined by NABP at nabp.pharmacy/programs.

b. No change.

2.9(2) Application requirements. Application to the board shall consist of the ~~final~~ application for license transfer that is prepared by NABP and electronically submitted to the board pursuant to the NABP license transfer program. A foreign pharmacy graduate shall submit certification from the FPGEC as provided in subrule 2.10(1). ~~Applications, together with other required information and fees, shall be submitted as provided in subrule 2.3(3).~~

2.9(3) MPJE required. An applicant shall also ~~be required to submit the registration application for successfully pass the MPJE, Iowa Edition, as provided in rule 657—2.2(155A) subrule 2.4(1). The form and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).~~

2.9(4) Fees. The nonrefundable fee for license transfer shall consist of the biennial license fee established by rule ~~657—2.11(147,155A) including surcharge of \$180~~ and a processing fee of \$90. No refunds of the processing fee shall be made for cancellation or withdrawal of an application. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, cashier's check, or certified check.

2.9(5) Timeliness. ~~A final~~ An application for license transfer is valid for 12 months following the date of issuance by NABP. ~~A candidate~~ An applicant for license transfer shall complete, within that one-year period, all licensure requirements established by this rule. ~~No refund of fees will be made for failure to complete all licensure requirements within this one-year period.~~

ITEM 13. Amend rule 657—2.10(155A) as follows:

657—2.10(155A) Foreign pharmacy graduates.

2.10(1) Education equivalency. Any applicant who is a graduate of a school or college of pharmacy located outside the United States that has not been recognized and approved by the board shall be deemed to have satisfied the requirements of Iowa Code section 155A.8, subsection 1, by certification by the ~~Foreign Pharmacy Graduate Examination Committee (FPGEC)~~ FPGEC. Each applicant shall have successfully passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) given by the FPGEC established by the NABP. The FPGEE is hereby recognized and approved by the board. Each applicant shall also demonstrate ~~proficiency in written English by passing the Test of English as a Foreign Language (TOEFL) and proficiency in spoken English by passing the Test of Spoken English (TSE) or proficiency in basic English language skills by passing the Internet Based TOEFL Test of English as a Foreign Language (TOEFL iBT) given by the FPGEC established by NABP. The TOEFL, TOEFL iBT, and TSE are~~ is hereby recognized and approved by the board. Certification by the FPGEC shall be evidence of the applicant's successfully passing the ~~FPGEE, TSE, and TOEFL, or the FPGEE and TOEFL iBT, and certification is a prerequisite to taking the licensure examinations required in subrule 2.4(1)~~ 2.4(1).

2.10(2) Internship. A foreign pharmacy graduate applicant shall also be required to obtain internship experience in one or more board-licensed ~~community or hospital~~ pharmacies as provided in rule 657—4.7(155A). Internship requirements shall, in all other aspects, meet the requirements established in 657—Chapter 4.

ITEM 14. Amend rule 657—2.11(147,155A) as follows:

657—2.11(147,155A) License expiration and renewal. A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, with the exception that a new pharmacist license issued between April 1 and June 29 shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the

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renewal application and ~~timely~~ payment of a nonrefundable fee of \$180 ~~fee plus applicable surcharge pursuant to 657—30.8(155A).~~

2.11(1) *Late payment renewal penalty.* Failure to renew the license before July 1 following expiration shall require payment of the nonrefundable renewal fee, and a nonrefundable penalty fee of \$180, ~~and applicable surcharge pursuant to 657—30.8(155A).~~ Failure to renew the license before August 1 following expiration shall require payment of the nonrefundable renewal fee, and a nonrefundable penalty fee of \$270, ~~and applicable surcharge pursuant to 657—30.8(155A).~~ Failure to renew the license before September 1 following expiration shall require payment of the nonrefundable renewal fee, and a nonrefundable penalty fee of \$360, ~~and applicable surcharge pursuant to 657—30.8(155A).~~ Failure to renew the license before October 1 following expiration may require an appearance before the board and shall require payment of the renewal a nonrefundable reactivation fee, a penalty fee of \$450, and applicable surcharge pursuant to 657—30.8(155A). ~~In no event shall the combined fee and penalty fee for late renewal of the license exceed of \$630 plus applicable surcharge pursuant to 657—30.8(155A).~~ The provisions of Iowa Code section 147.11 shall apply to a license that is not renewed within five months of the expiration date.

2.11(2) *Delinquent license.* If a license is not renewed before its expiration date, the license is delinquent and the licensee may not practice pharmacy in the state of Iowa until the licensee reactivates the delinquent license. Reactivation of a delinquent license shall include submission of a completed application and appropriate nonrefundable fees and may include requirements relating to the reactivation of an inactive license pursuant to subrule 2.13(2). A pharmacist who continues to practice pharmacy in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule ~~36.4(4)~~ 36.6(22).

ITEM 15. Amend rule 657—2.12(272C) as follows:

657—2.12(272C) *Continuing education requirements.* Pharmacists shall complete continuing education for license renewal pursuant to the requirements of this rule, except as provided in subrule 2.12(6) or rule 657—2.17(272C). ~~For purposes of this rule, “continuing education” means a structured educational activity that is applicable to the practice of pharmacy, that promotes problem solving and critical thinking, and that is designed or intended to support the continuing development of pharmacists to maintain and enhance their competence in the practice of pharmacy.~~ Nothing in these rules precludes the board from requiring an applicant for license renewal or reactivation to submit to a relicensure examination.

2.12(1) *Continuing pharmacy education unit (CPE) required.* ~~The nationally accepted measurement of continuing education is referred to as CEU (continuing education unit), and the board employs that measurement. Ten contact hours of approved continuing education are equivalent to one CEU. A pharmacist shall complete no less than 30 hours of CPE during each renewal period except as provided in subrule 2.12(6) or rule 657—2.17(272C).~~

~~a. The board will require 3.0 CEUs each renewal period except as provided in subrule 2.12(5) or rule 657—2.17(272C). For purposes of this rule, “renewal period” means the 27-month period commencing April 1 prior to the previous license expiration and ending June 30, the date of current license expiration.~~

~~b. a.~~ A pharmacist who fails to complete the required CEUs CPE hours within the renewal period shall be required to complete one and one-half times the number of delinquent CEUs CPE hours prior to reactivation of the license.

~~e. b.~~ CEUs CPE hours that are used to satisfy the continuing education CPE requirement for one renewal period shall not be used to satisfy the requirement for a subsequent renewal period.

~~d. c.~~ Failure to receive a license renewal application or notice of license renewal shall not relieve the pharmacist of the responsibility of meeting continuing education CPE requirements.

2.12(2) *Continuing education CPE activity completion.* Continuing education

~~a.~~ ACPE provider activity. CPE activities that carry the seal of an Accreditation Council for Pharmacy Education (ACPE)-accredited provider will automatically qualify for continuing education CPE credit. Successful completion and record of continuing education CPE activities in CPE Monitor is

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mandated in order for a pharmacist to receive credit for ACPE-accredited provider ~~continuing education~~ CPE activities.

~~a. b.~~ *Non-ACPE provider activity.* A maximum of ~~1.3 CEUs (13 contact hours)~~ 13 CPE hours of the total ~~3.0 CEUs of continuing education credits~~ 30 CPE hours required pursuant to subrule 2.12(4) may be obtained through completion of non-ACPE provider activities if such activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist's professional practice. Non-ACPE provider activity completion shall be recorded, evaluated, and reported pursuant to the provisions of rule 657—2.17(272C) regarding continuing professional development.

(1) to (3) No change.

~~b.~~ *Exemption for health-related graduate studies.* A pharmacist who is continuing formal education in a health-related graduate program, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. As an alternative to requesting exemption from meeting the continuing education requirements, the pharmacist may complete a CPD portfolio pursuant to rule 657—2.17(272C).

(1) An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office.

(2) At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

2.12(3) Continuing education CPE activity record of credit. An ACPE-accredited provider will be required to transmit to CPE Monitor information regarding an individual pharmacist's participation in and successful completion of a ~~continuing education~~ CPE activity. The record shall be accessible to the board and shall include the following information:

a. to e. No change.

2.12(4) Continuing education CPE activity topics. Each pharmacist is required to obtain ~~continuing education~~ CPE by completing activities in the topics specified in this subrule.

a. *Drug therapy.* A minimum of ~~1.5 CEUs (15 contact hours)~~ 15 CPE hours of the pharmacist's required ~~3.0 CEUs~~ 30 CPE hours shall be in ACPE-accredited provider activities dealing with drug therapy. Activities qualifying for the drug therapy requirement will include the ACPE topic designator "01" or "02" followed by the letter "P" at the end of the universal activity number.

b. *Pharmacy law.* A minimum of ~~0.2 CEUs (2 contact hours)~~ 2 CPE hours of the pharmacist's required ~~3.0 CEUs~~ 30 CPE hours shall be in ACPE-accredited provider activities dealing with pharmacy law. Activities qualifying for the pharmacy law requirement will include the ACPE topic designator "03" followed by the letter "P" at the end of the universal activity number.

c. *Patient or medication safety.* A minimum of ~~0.2 CEUs (2 contact hours)~~ 2 CPE hours of the pharmacist's required ~~3.0 CEUs~~ 30 CPE hours shall be in activities dealing with patient or medication safety. Activities completed to fulfill this requirement may be ACPE-accredited provider activities, in which case the universal activity number will end with the ACPE topic designator "05" followed by the letter "P." A pharmacist may complete non-ACPE provider activities as provided in paragraph 2.12(2)"a" 2.12(2)"b" to fulfill this topic requirement.

d. *Immunization.* If the pharmacist is engaged in the administration of immunizations during the renewal period, a minimum of 1 CPE hour of the required 30 CPE hours shall be in ACPE-accredited provider activities dealing with immunization or vaccine administration. Activities qualifying for the immunization requirement will include the ACPE topic designator of "06" followed by the letter "P" at the end of the universal activity number.

2.12(5) New license holders licensed by examination. After the initial license is issued by examination, the new license holder is exempt from meeting continuing education requirements for the first license renewal. However, if the licensee qualifies as a mandatory abuse reporter, the licensee shall not be exempt from mandatory training for identifying and reporting abuse pursuant to rule 657—2.16(235B,272C). Regardless of when the license is first issued, the new license holder

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will be required to obtain, prior to the second renewal, 30 contact hours (3.0 CEUs) of continuing education pursuant to subrules 2.12(1) through 2.12(4) or to complete a CPD portfolio pursuant to rule 657—2.17(272C).

2.12(6) *New license holders licensed by license transfer/reciprocity.* After the initial license is issued by license transfer, the new license holder will be required to obtain, prior to the first license renewal, 30 contact hours (3.0 CEUs) of continuing education credits pursuant to subrules 2.12(1) through 2.12(4) or to complete a CPD portfolio pursuant to rule 657—2.17(272C).

2.12(7) **2.12(5)** *Reporting continuing education CPE credits.*

a. A pharmacist shall provide or report to the board, in the format specified on or with the pharmacist license renewal application, evidence attestation that the continuing education CPE requirements have been met.

b. The board may require a pharmacist to submit activity statements of credit or other documented evidence of successful completion of the activities reported as fulfilling the continuing education CPE requirements.

2.12(8) *Physical disability or illness.* The board may, in individual cases involving physical disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application is made and signed by the licensee and the licensee's physician. The board may grant waivers of the minimum continuing education requirements for physical disability or illness for any period of time not to exceed one renewal period. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the licensee to make up all or any portion of the waived continuing education requirements by any method prescribed by the board.

2.12(6) *Exemptions and waivers to CPE requirements.*

a. *Credit for health-related graduate studies.* A pharmacist who is continuing formal education in a health-related graduate program, including participation in a pharmacy residency program, may be granted credit for health-related learning during the period of such enrollment or participation. As an alternative to requesting credit for health-related learning, the pharmacist may complete a CPD portfolio pursuant to rule 657—2.17(272C).

(1) An applicant for credit for health-related learning shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board.

(2) At the discretion of the board, credit granted for health-related learning during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

b. *Exemption for new license holders licensed by examination.* After the initial license is issued by examination, the licensee is exempt from meeting CPE requirements for the first license renewal. However, if the licensee qualifies as a mandatory abuse reporter, the licensee shall not be exempt from mandatory training for identifying and reporting abuse pursuant to rule 657—2.16(235B,272C).

c. *Waiver from CPE requirements due to physical disability or illness.* The board may, in individual cases involving physical disability or illness, grant a waiver pursuant to 657—Chapter 34 of the minimum CPE requirements or an extension of time within which to fulfill the same or make the required reports. The board may grant a waiver of the minimum CPE requirements for physical disability or illness for any period of time not to exceed one renewal period. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the licensee to make up all or any portion of the waived CPE requirements by any method prescribed by the board. A waiver request pursuant to this paragraph and 657—Chapter 34 shall be signed by the licensee and the licensee's physician.

d. *Active military duty.* A licensee shall be deemed compliant with the CPE requirements of this rule during periods that the licensee serves honorably on active duty in the military services.

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e. Nonresident. A licensee who is not actively practicing in Iowa, is a resident of another state, and holds an active pharmacist license in the licensee's home state during the renewal period shall be deemed compliant with the CPE requirements of this rule.

ITEM 16. Amend rule 657—2.13(272C) as follows:

657—2.13(272C) Active and inactive license status.

2.13(1) Active license. Active license status applies to a pharmacist who has submitted the renewal application and nonrefundable fee and has met Iowa requirements for ~~continuing education~~ CPE or has completed a CPD portfolio pursuant to rule 657—2.17(272C). Active license status also applies to a pharmacist who has submitted the renewal application and fee and who is a resident of another state, is licensed to practice pharmacy in that state, and has met the continuing education requirements of that state. A pharmacist who meets the continuing education requirements of another state shall provide documentation on the renewal application of the pharmacist's license status in that state. ~~An Iowa licensee actively practicing in a state that does not require continuing education for license renewal shall be required to meet Iowa continuing education or CPD requirements.~~

2.13(2) Inactive license. Failure of a pharmacist to comply with the ~~continuing education~~ CPE or CPD requirements during the renewal period shall result in the issuance of a renewal card marked "inactive" upon submission of the renewal application and nonrefundable fee. Reactivation of an inactive pharmacist license shall be accomplished by the appropriate method described below. Internship, in each instance where internship is mentioned below, shall be in a pharmacy approved by the board. The pharmacist may be required to obtain a pharmacist-intern registration, including payment of the appropriate nonrefundable registration fee, and be issued an intern registration certificate.

a. No change.

b. An inactive pharmacist who wishes to become active and who has been actively practicing pharmacy during the last five years in a state which does not require continuing education shall submit proof of continued licensure in good standing in the state or states of such practice. The pharmacist shall also complete one of the following options:

(1) Take and successfully pass the MPJE, Iowa Edition, as provided in subrule ~~2.1(4)~~ 2.4(1);

(2) No change.

(3) Obtain one and one-half times the number of ~~continuing education~~ CPE credits required under subrule 2.12(1) for each renewal period the pharmacist was inactive; or

(4) No change.

c. An inactive pharmacist who wishes to become active and who has not been actively practicing pharmacy during the past five years, and whose license has been inactive for not more than five years, shall complete one of the following options:

(1) Successfully pass all components of the licensure examination as required in ~~rule 657—2.1(147,155A)~~ subrule 2.4(1);

(2) No change.

(3) Obtain one and one-half times the number of ~~continuing education~~ CPE credits required under subrule 2.12(1) for each renewal period the pharmacist was inactive; or

(4) No change.

d. An inactive pharmacist who wishes to become active and who has not been actively practicing pharmacy for more than five years shall petition the board for reactivation of the license to practice pharmacy under one or more of the following options:

(1) Successfully pass all components of the licensure examination as required in ~~rule 657—2.1(147,155A)~~ subrule 2.4(1);

(2) No change.

(3) Obtain one and one-half times the number of ~~continuing education~~ CPE credits required under subrule 2.12(1) for each renewal period the pharmacist was inactive; or

(4) No change.

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ITEM 17. Amend rule 657—2.14(155A) as follows:

657—2.14(147,155A) Fees for additional license certificates and verification.

2.14(1) Only original license certificates issued by the board of pharmacy for licensed pharmacists are valid. Additional original license certificates for licensed pharmacists may be obtained from the board of pharmacy for a prepaid nonrefundable fee of \$20 each. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

2.14(2) The board may require the submission of a nonrefundable fee of \$15 for written license verification.

ITEM 18. Amend rule 657—2.15(155A) as follows:

657—2.15(155A) Notifications to the board.

2.15(1) *Reporting licensee changes.* A pharmacist licensee shall report to the board within ten days a change of the pharmacist's licensee's name, address, email address, or pharmacy employment. Except for a change in name, an update to the licensee's personal online profile through the board's online database shall satisfy this subrule.

2.15(2) *Reporting criminal convictions and pleas.* A licensee who has been convicted of, or entered a plea of guilty, nolo contendere, or no contest to, a crime, other than a minor traffic offense, shall report such conviction or plea to the board within 30 days of adjudication.

2.15(3) *Reporting of disciplinary action.* A licensee who has been the subject of disciplinary action in another state, to include but not be limited to citations, reprimands, fines, license restrictions, probation, or license surrender, suspension, or revocation, shall report such action to the board within 30 days of adjudication.

ITEM 19. Amend rule 657—2.17(272C) as follows:

657—2.17(272C) Continuing professional development portfolio. A pharmacist may complete and submit with the pharmacist's license renewal a continuing professional development (CPD) CPD portfolio to fulfill the continuing education CPE requirements in rule 657—2.12(272C). For purposes of these rules, "CPD" means a self-directed, ongoing, systematic, and outcomes-focused approach to learning and professional development including active participation in learning activities that assist a pharmacist in developing and maintaining continuing competence in the practice of pharmacy, enhancing the pharmacist's professional practice, and supporting achievement of the pharmacist's career goals. Definitions and descriptions of the terms "continuing education," "CEU," and "renewal period" included in rule 657—2.12(272C) shall apply to those terms as used in this rule.

2.17(1) *Declaration of intent.* A pharmacist shall declare on or with the previous license renewal, or shall notify the board no later than January 1 of the year the pharmacist's license is scheduled for renewal, of the pharmacist's intent to complete a CPD portfolio for the next license renewal.

a. The pharmacist's declaration of intent shall be in writing. Oral declaration of intent to complete a CPD portfolio will not be accepted.

b. A declaration of intent may be delivered to the board office via e-mail, facsimile transmission, or alternate hard-copy delivery.

2.17(2) **2.17(1)** *Prerequisite.* A pharmacist, prior to submitting the pharmacist's initial CPD portfolio, shall complete an ACPE-accredited provider activity regarding the objectives and processes relating to CPD. Record of the pharmacist's participation in this prerequisite activity shall be included in the pharmacist's initial CPD portfolio.

2.17(3) **2.17(2)** *CPD portfolio requirements.* A pharmacist shall combine traditional continuing education CPE activities with professional development activities. The pharmacist shall incorporate the record of completion and evaluation of any traditional continuing education CPE activities into the CPD portfolio.

a. No change.

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b. The pharmacist is responsible for ensuring that the activities identified in the CPD portfolio comply with the ~~continuing education~~ CPE topic requirements identified in subrules 2.12(4) and ~~2.17(4)~~ 2.17(3).

~~2.17(4)~~ 2.17(3) *CPD portfolio content.* In addition to the record of completion of the one-time prerequisite activity identified in subrule ~~2.17(2)~~ 2.17(1), a completed CPD portfolio shall include or identify the following:

a. A minimum of 30 documented learning outcomes in the form of completed learning statements. ~~The learning statement form or format shall be~~ on forms provided by the board.

b. Documented learning outcomes shall include a minimum of two outcomes relating to patient or medication safety, two outcomes relating to pharmacy law, ~~and~~ 15 outcomes relating to drug therapy, and if the pharmacist is engaged in the administration of immunizations or vaccines, one outcome relating to vaccine administration.

c. Documented learning outcomes shall include any number of ~~continuing education~~ CPE activities that carry the seal of an ACPE-accredited provider. Successful completion and record of these ~~continuing education~~ CPE activities in CPE Monitor as provided in subrule ~~2.12(2)~~ 2.12(3), in addition to the documented CPD learning outcomes, is required for the pharmacist to receive credit for these activities.

d. Documented learning outcomes shall include any ~~continuing education~~ CPE activities provided by non-ACPE, accredited, health-professional continuing education providers pursuant to ~~subrule 2.12(2), paragraph 2.12(2) "b."~~

~~2.17(5)~~ 2.17(4) *CPD portfolio review.* The board shall review or may contract for peer review of CPD portfolios submitted for pharmacist license renewal. The board shall respond to a submitting pharmacist with comments, suggestions, and recommendations regarding the pharmacist's CPD portfolio and processes.

ITEM 20. Amend subrule 4.6(4) as follows:

~~4.6(4)~~ *Identification, reports, and notifications.* Credit for internship time will not be granted unless registration and other required records or affidavits are completed.

a. and b. No change.

c. Notarized affidavits of experience in non-college-sponsored programs shall be ~~filed with~~ submitted to the board office after the successful completion of the internship no later than six months following graduation from a school or college of pharmacy. These affidavits shall certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience.

ITEM 21. Rescind subrule ~~4.7(3)~~.

ITEM 22. Amend subrule 25.3(5) as follows:

~~25.3(5)~~ *Reinstatement following license suspension, revocation, or denial of renewal.* A licensee shall pay all board fees required for license renewal or license reinstatement, and all continuing education requirements shall be met, before a license will be reinstated after the board has suspended a license pursuant to the Act. A licensee whose license to practice pharmacy has been revoked shall complete the examination components as indicated in ~~rule 657—2.1(147,155A)~~ 657—subrule 2.4(1) and shall pay all required examination fees pursuant to ~~rule 657—2.3(147,155A)~~ 657—subrule 2.5(3). A licensee whose registration to practice as a pharmacist-intern, as a pharmacy technician, or as a pharmacy support person or whose registration to handle controlled substances under Iowa Code chapter 124 has been revoked shall complete the appropriate application and pay all board fees required for new registration.

ITEM 23. Amend subrule 31.3(5) as follows:

~~31.3(5)~~ *Reinstatement following license suspension, revocation, or denial of renewal.* All board fees required for license renewal or license reinstatement shall be paid by licensees, and all continuing education requirements shall be met, before a license will be renewed or reinstated after the board has suspended a license pursuant to the Act. A licensee whose license to practice pharmacy has

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been revoked shall complete the examination components as indicated in ~~rule 657—2.1(147,155A)~~ 657—subrule 2.4(1) and shall pay all required examination fees pursuant to ~~rule 657—2.3(147,155A)~~ 657—subrule 2.5(3). A licensee whose registration to practice as a pharmacist-intern, as a pharmacy technician, or as a pharmacy support person or whose registration to handle controlled substances under Iowa Code chapter 124 has been revoked shall complete the appropriate application and pay all board fees required for new registration.

ITEM 24. Amend subrule 32.3(5) as follows:

32.3(5) *Reinstatement following license suspension, revocation, or denial of renewal.* All board fees required for license renewal or license reinstatement shall be paid by the licensee and all continuing education requirements shall be met before a license will be renewed or reinstated after the board has suspended a license pursuant to the Act. A licensee whose license to practice pharmacy has been revoked shall complete the examination components as indicated in ~~rule 657—2.10(155A)~~ 657—subrule 2.4(1) and shall pay all required examination fees pursuant to ~~rule 657—2.2(155A)~~ 657—subrule 2.5(3). A licensee whose registration to practice as a pharmacist-intern, as a pharmacy technician, or as a pharmacy support person or whose registration to handle controlled substances under Iowa Code chapter 124 has been revoked shall complete the appropriate application and pay all board fees required for new registration.

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4580C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to exemptions to the electronic prescription mandate

The Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” and Chapter 21, “Electronic Data and Automated Systems in Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.301, 124.308, 147.76 and 155A.27.

State or Federal Law Implemented

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

Purpose and Summary

During the 2018 Legislative Session, the Iowa Code was amended to require the electronic transmission of all prescriptions as of January 1, 2020. The amendments to the Iowa Code provided exemptions for prescriptions which will not be required to be transmitted electronically. The amendments provided that a prescriber, medical group, institution, or pharmacy that is unable to comply with the electronic prescription mandate may petition the Board for an exemption. The amendments required the Board to adopt rules to establish the form and specific information to be included in a request for such an exemption and the specific criteria to be considered by the Board in determining whether to approve a request for exemption. This rule making implements the electronic prescription mandate.

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Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4386C**. A public hearing was held on May 7, 2019, at 9 a.m. in the Shared Conference Room, Suite E, 400 S.W. 8th Street, Des Moines, Iowa. The Iowa Pharmacy Association attended the hearing but did not provide additional public comment.

The Board received comments which sought further clarification of the exemption from electronic transmission for emergency situations, requested amendments to the language for the exemption for technological difficulties, requested the addition of the Iowa Code language relating to the fines associated with noncompliance, supported the opportunity for entities to seek exemption in extenuating circumstances, and identified a proposed amendment in paragraph 21.6(2)“a” which was not appropriate based on federal law.

In response to the comments, the Board made changes to the language in paragraph 21.8(1)“k” relating to the exemption for an emergency situation to provide that a prescription may be issued to meet the immediate care need of a patient after hours when a prescriber is unable to access electronic prescribing capabilities and that such a prescription shall be limited to a quantity sufficient to meet the acute need of the patient with no authorized refills. Also, the proposed amendment to paragraph 21.6(2)“a” was not adopted.

Adoption of Rule Making

This rule making was adopted by the Board on July 10, 2019.

Fiscal Impact

This rule making may have minimal fiscal impact to the State of Iowa. As noted in the legislation’s fiscal note submission, the Board anticipates potentially two additional days of meetings to review petitions for exemption to the mandate. This would result in an estimated \$2,500 expense to the Board for the initiation of the mandate if the extra days of meetings become necessary.

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 September 4, 2019.

The following rule-making actions are adopted:

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ITEM 1. Adopt the following new rule 657—8.18(124,155A):

657—8.18(124,155A) Electronic prescription mandate. Beginning January 1, 2020, all prescriptions shall be transmitted electronically to a pharmacy pursuant to rule 657—21.6(124,155A), except as provided in rule 657—21.8(124,155A). A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception provided in rule 657—21.8(124,155A) and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile prescription pursuant to rule 657—8.19(124,126,155A).

ITEM 2. 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 that is issued prior to January 1, 2020, or that is exempt from the electronic prescription mandate pursuant to rule 657—21.8(124,155A) 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)~~ 657—21.7(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)~~ 657—21.6(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. No change.

b. Written prescription. In addition to the requirements of paragraph 8.19(1)"*a*," a written prescription shall be manually signed, with ink or indelible pencil, by the prescriber. The requirement for manual signature shall not apply when an electronically prepared and signed prescription for a noncontrolled substance is printed on security paper as provided in ~~657—paragraph 21.7(3)"*b*."~~ 21.6(2)"*b*."

c. and *d.* No change.

8.19(2) to 8.19(8) No change.

ITEM 3. Amend rule 657—10.24(124,126,155A) as follows:

657—10.24(124,126,155A) Prescription requirements. All prescriptions for controlled substances shall be dated as of, and signed on, the day issued. Controlled substances prescriptions shall be valid for six months following date of issue. A prescription for a Schedule III, IV, or V controlled substance may include authorization to refill the prescription no more than five times within the six months following date of issue. A prescription for a Schedule II controlled substance shall not be refilled. Beginning January 1, 2020, all prescriptions for controlled substances shall be transmitted electronically to a pharmacy pursuant to rule 657—21.6(124,155A), except as provided in rule 657—21.8(124,155A).

10.24(1) Form of prescription. All prescriptions for controlled substances shall bear the full name and address of the patient; the drug name, strength, dosage form, quantity prescribed, and directions for use; and the name, address, and DEA registration number of the prescriber. All prescriptions for controlled substances issued by individual prescribers shall include the legibly preprinted, typed, or hand-printed name of the prescriber as well as the prescriber's written or electronic signature. A prescription for a controlled substance issued prior to January 1, 2020, or a prescription for a controlled substance that is exempt from the electronic prescription mandate pursuant to rule 657—21.8(124,155A), may be transmitted via nonelectronic methods as described in this rule.

a. to *e.* No change.

10.24(2) Verification by pharmacist.

a. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in each case when a written or oral prescription for a Schedule II controlled substance is presented for filling and neither the prescribing individual practitioner issuing the

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prescription nor the patient or patient's agent is known to the pharmacist. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in any case when the pharmacist questions the validity of, including the legitimate medical purpose for, the prescription. The pharmacist is required to record the manner by which the prescription was verified and include the pharmacist's name or unique identifier.

b. A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception to the electronic prescription mandate provided in rule 657—21.8(124,155A) and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile prescription pursuant to this rule.

10.24(3) and **10.24(4)** No change.

10.24(5) *Facsimile transmission of a controlled substance prescription.* With the exception of an authorization for emergency dispensing as provided in rule 657—10.26(124), a prescription for a controlled substance in Schedules II, III, IV and V may be transmitted via facsimile from a prescriber to a pharmacy only as provided in rule ~~657—21.9(124,155A)~~ 657—21.7(124,155A).

ITEM 4. Amend subrule 10.29(3) as follows:

10.29(3) *Dates and instructions.* Each prescription issued pursuant to this rule shall be dated as of and manually or electronically signed by the prescriber on the day the prescription is issued. Each separate prescription, other than the first prescription if that prescription is intended to be filled immediately, shall contain written instructions indicating the earliest date on which a pharmacist may fill each prescription.

ITEM 5. Amend rule 657—10.32(124) as follows:

657—10.32(124) Schedule III, IV, or V prescription. No prescription for a controlled substance listed in Schedule III, IV, or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times. Beginning January 1, 2020, all prescriptions for controlled substances shall be transmitted electronically to a pharmacy pursuant to rule 657—21.6(124,155A), except as provided in rule 657—21.8(124,155A).

10.32(1) to **10.32(4)** No change.

ITEM 6. Adopt the following **new** definition of “CSA” in rule **657—21.2(124,155A)**:

“CSA” means the Iowa uniform controlled substances Act.

ITEM 7. Adopt the following **new** definition of “CSA registration” in rule **657—21.2(124,155A)**:

“CSA registration” means the registration issued by the board pursuant to the CSA that signifies the registrant's authorization to engage in registered activities with controlled substances.

ITEM 8. Amend rule 657—21.6(124,155A) as follows:

657—21.6(124,155A) Electronic prescription applications. A Beginning January 1, 2020, each prescription for a controlled substance shall be transmitted electronically to a pharmacy except as provided in rule 657—21.8(124,155A). Prior to January 1, 2020, a prescriber may, but shall not be required to, initiate and authorize a prescription drug order utilizing an electronic prescription application that has been determined to maintain security and confidentiality of patient information and records and, if prescribing controlled substances via an electronic prescribing system, certified compliant with DEA regulations for electronic prescribing of controlled substances. The prescription drug order shall contain all information required by Iowa Code sections 155A.27 and 147.107(5). The receiving pharmacist shall be responsible for verifying the authenticity of an electronically prescribed prescription pursuant to rule 657—8.19(124,126,155A). A prescription that is electronically generated prior to January 1, 2020, or subject to exemption as provided in rule 657—21.8(124,155A), may be transmitted to a pharmacy via electronic or facsimile transmission or printed in hard-copy format for delivery to the pharmacy. A prescription that is transmitted by a prescriber's agent via electronic or facsimile transmission shall include the first and last names and title of the agent responsible for the transmission.

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21.6(1) *Electronic transmission.* A Beginning January 1, 2020, a prescription prepared pursuant to this rule ~~may shall be transmitted electronically to a pharmacy via electronic transmission, unless exempt pursuant to rule 657—21.8(124,155A).~~ A pharmacy shall be certified compliant with DEA regulations relating to electronic prescriptions prior to electronically receiving prescriptions for controlled substances. The electronic record shall serve as the original record and shall be maintained for two years from the date of last activity on the prescription. Any annotations shall be made and retained on the electronic record.

a. to e. No change.

21.6(2) *Printed (hard-copy) prescriptions.* ~~An electronically generated~~ A prescription electronically generated prior to January 1, 2020, or a prescription that is exempt from the electronic prescription mandate as provided in rule 657—21.8(124,155A), may be printed in hard-copy format for facsimile transmission or delivery to the pharmacy.

a. to c. No change.

ITEM 9. Adopt the following **new** rule 657—21.8(124,155A):

657—21.8(124,155A) Electronic prescription mandate and exemptions. Beginning January 1, 2020, all prescriptions shall be transmitted electronically to a pharmacy except as provided in this rule.

21.8(1) *Prescriptions exempt.* Prescriptions which shall be exempt from electronic transmission include:

a. A prescription for a patient residing in a nursing home, long-term care facility, correctional facility, or jail.

b. A prescription authorized by a licensed veterinarian.

c. A prescription for a device.

d. A prescription dispensed by a department of veterans affairs pharmacy.

e. A prescription requiring information that makes electronic transmission impractical, such as complicated or lengthy directions for use or attachments.

f. A prescription for a compounded preparation containing two or more components.

g. A prescription issued in response to a public health emergency in a situation where a non-patient-specific prescription would be permitted.

h. A prescription issued for an opioid antagonist pursuant to Iowa Code section 135.190 or a prescription issued for epinephrine pursuant to Iowa Code section 135.185.

i. A prescription issued during a temporary technical or electronic failure at the location of the prescriber or pharmacy, provided that a prescription issued pursuant to this paragraph shall indicate on the prescription that the prescriber or pharmacy is experiencing a temporary technical or electronic failure.

j. A prescription issued pursuant to an established and valid collaborative practice agreement, standing order, or drug research protocol.

k. A prescription issued in an emergency situation pursuant to federal law and regulation and rules of the board. An emergency situation may include, but is not limited to, the issuance of a prescription to meet the immediate care need of a patient after hours when a prescriber is unable to access electronic prescribing capabilities. Such prescription shall be limited to a quantity sufficient to meet the acute need of the patient with no authorized refills.

21.8(2) *Prescriber, medical group, institution, or pharmacy exemption.* A prescriber, medical group, institution, or pharmacy which has been granted an exemption to the electronic prescription mandate pursuant to rule 657—21.9(124,155A) shall be exempt from the electronic prescription mandate only for the duration of the approved exemption. Upon expiration of an approved exemption, the prescriber, medical group, institution, or pharmacy shall either comply with the electronic prescription mandate or timely petition the board for renewal of the exemption pursuant to rule 657—21.9(124,155A).

ITEM 10. Adopt the following **new** rule 657—21.9(124,155A):

657—21.9(124,155A) Exemption from electronic prescription mandate—petition. A prescriber, medical group, institution, or pharmacy that is unable to comply with the electronic prescription

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mandate in rule 657—21.8(124,155A) prior to January 1, 2020, may petition the board, on forms provided by the board, for an exemption from the requirements based upon economic hardship; technical limitations that the prescriber, medical group, institution, or pharmacy cannot control; or other exceptional circumstances. A prescriber, medical group, institution, or pharmacy seeking an exemption beginning January 1, 2020, shall submit a completed petition no later than October 1, 2019. A timely petition for renewal of a previously approved exemption shall be submitted at least 60 days in advance of the expiration of the previously approved exemption.

21.9(1) *Petition information.* A petition for exemption from the electronic prescription mandate shall include, but not be limited to, all of the following:

a. The name and address of the prescriber, medical group, institution, or pharmacy seeking the exemption. For medical groups and institutions, a list of the names, professional license numbers, and CSA registration numbers of all prescribers who would be covered by the exemption.

b. Whether the petitioner is seeking an exemption for controlled substance prescriptions, non-controlled substance prescriptions, or both.

c. The petitioner's current electronic prescribing capabilities.

d. The reason, such as economic hardship, technological limitations, or other exceptional circumstances, the petitioner is seeking exemption.

e. Supporting documentation to justify the reason for the exemption, including the following mandatory documentation:

(1) For economic hardship petitions, a copy of the petitioner's most recent tax return showing annual income and at least two quotes documenting the cost of implementing electronic prescribing.

(2) For technological limitation petitions, documentation showing the available Internet service providers, the speed and bandwidth available from each provider, and any data caps imposed by the Internet service provider, and documentation showing the minimum technological requirements from at least two electronic prescribing platform vendors.

f. Anticipated date of compliance with the electronic prescription mandate.

g. If the petition seeks renewal of a previously approved exemption, information relating to the petitioner's actions during the previous exemption period to work toward compliance with the electronic prescription mandate or an explanation as to why no progress has been made.

21.9(2) *Criteria for board consideration of a petition.* The board shall consider all information provided in a petition seeking exemption to the electronic prescription mandate and shall approve or deny a petition for exemption based on the following criteria:

a. If the reason for exemption is economic hardship, whether the cost of compliance with the electronic prescription mandate would exceed 5 percent of the petitioner's annual income as reported on the petitioner's most recent tax return.

b. If the reason for exemption is technological limitations, whether the Internet service providers available have the technological capabilities required by the electronic prescribing platform.

c. If the reason for exemption is other exceptional circumstances, examples of exceptional circumstances include, but are not limited to, whether the petitioner is a free or low-income clinic, whether the petitioner had a bankruptcy in the previous year, whether the petitioner intends to discontinue practice in Iowa prior to December 31, 2020, and whether the petitioner has a disability that limits the ability to utilize an electronic prescribing platform. All other exceptional circumstances will be evaluated on a case-by-case basis.

d. If the petition seeks renewal of a previous exemption to the electronic prescription mandate, the number of exemptions previously granted and updated information as it relates to the petitioner working toward compliance with the electronic prescription mandate or the explanation as to why no progress has been made.

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21.9(3) Duration of approved exemption. The board may approve an exemption, or the renewal of an exemption, to the electronic prescription mandate for a specified period of time not to exceed one year from the date of approval.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4581C

PHARMACY BOARD[657]

Adopted and Filed

**Rule making related to licensing sanctions regarding
student loan debt or related service obligations**

The Board of Pharmacy hereby rescinds Chapter 31, "Student Loan Default or Noncompliance with Agreement for Payment of Obligation," and amends Chapter 36, "Discipline," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2019 Iowa Acts, Senate File 304.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304.

Purpose and Summary

During the 2019 Legislative Session, changes were made to the Iowa Code which resulted in the repeal of Iowa Code sections 261.121 through 261.127, on July 1, 2019, and prohibited the suspension or revocation of a license issued by a board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. This rule making implements the legislative changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4484C**. The Board received one comment in support of the amendments. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

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.

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 September 4, 2019.

The following rule-making actions are adopted:

- ITEM 1. Rescind and reserve **657—Chapter 31**.
- ITEM 2. Rescind subrule **36.6(25)**.
- ITEM 3. Renumber subrules **36.6(26)** to **36.6(44)** as **36.6(25)** to **36.6(43)**.
- ITEM 4. Adopt the following new rule 657—36.11(88GA,SF304):

657—36.11(88GA,SF304) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

[Filed 7/10/19, effective 9/4/19]

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ARC 4582C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to military spouse licensure

The Board of Pharmacy hereby amends Chapter 33, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 288, section 4.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to require agencies to establish procedures to expedite the licensing of an individual who is licensed in a similar profession or

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occupation in another state and who is the spouse of an active duty member of the military forces of the United States. These amendments implement this change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4483C**. 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 July 10, 2019.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, the impact on jobs cannot be determined because the number of individuals this may impact is unknown.

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 September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Spouse" in rule **657—33.1(85GA,ch1116)**:
"Spouse" means a spouse of an active duty member of the military forces of the United States.

ITEM 2. Amend rule 657—33.3(85GA,ch1116) as follows:

657—33.3(85GA,ch1116) Veteran or spouse licensure or registration. A veteran or spouse with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license ~~transfer/reciprocity~~ transfer pursuant to rule 657—2.9(147,155A) and this chapter. A veteran or spouse must pass any required examinations to be eligible for pharmacist licensure by license ~~transfer/reciprocity~~ transfer. A veteran or spouse may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran or spouse may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran or spouse may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

33.3(1) Priority application status. A fully completed application for licensure or registration submitted by a veteran or spouse under this chapter shall be given priority status and shall be expedited.

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33.3(2) *Application requirements.* Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse of an active duty member of the military forces of the United States.

33.3(3) *Equivalency determination.* Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the requirements for licensure or registration of the jurisdiction where the veteran or spouse is licensed or registered are substantially equivalent to the requirements for licensure or registration in Iowa. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and ~~post-graduate~~ postgraduate experiences.

33.3(4) *Licensure or registration approval.* The board shall promptly grant a license or registration, as appropriate, to the veteran or spouse if the ~~veteran~~ applicant is licensed or registered in another jurisdiction whose licensure or registration requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant's disciplinary or criminal background.

33.3(5) *Notification of additional requirements and provisional licensure or registration.* If the board determines that the veteran or spouse is licensed or registered in another jurisdiction whose licensure or registration requirements are not substantially equivalent to those required in Iowa, the board shall promptly inform the ~~veteran~~ applicant of the additional experience, education, or examinations required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a ~~veteran~~ the applicant has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status. The board may issue a provisional 90-day license in order for a pharmacist who has applied for license transfer pursuant to rule 657—2.9(147,155A) to take and pass the multistate pharmacy jurisprudence examination (MPJE), Iowa Edition.

b. to d. No change.

ITEM 3. Amend rule 657—33.4(85GA,ch1116) as follows:

657—33.4(85GA,ch1116) Request for contested case. A military service applicant or a veteran or spouse who is aggrieved by the board's decision to deny all or part of the military service credit application, a request for a license ~~transfer/reciprocal license transfer~~, a request for a registration, or a request for provisional license or registration, or is aggrieved by the terms under which a provisional license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision pursuant to 657—subrule ~~35.26(1)~~ 35.30(1). There shall be no fees or costs assessed against the military service applicant, veteran or spouse in connection with a contested case conducted pursuant to this chapter.

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4583C**PHARMACY BOARD[657]****Adopted and Filed****Rule making related to statewide protocols**

The Board of Pharmacy hereby amends 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 sections 147.76 and 155A.46.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 155A.46.

Purpose and Summary

The amendments provide language which identifies an order issued by a pharmacist under a statewide protocol as constituting a prescription for the purpose of submission of third-party insurance claims.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4388C**. In addition, similar amendments to Chapter 39 were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4387C** on the same date. 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 July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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 September 4, 2019, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

PHARMACY BOARD[657](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—39.6(155A) as follows:

657—39.6(155A) Statewide protocols. A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and available on the board's website at pharmacy.iowa.gov, ~~prescribe~~ order and dispense medications pursuant to rules 657—39.8(155A), 657—39.9(155A), and 657—39.11(155A). For the purpose of this rule, the order shall constitute a prescription.

ITEM 2. Amend rule 657—39.8(155A) as follows:

657—39.8(155A) Statewide protocol—naloxone. An authorized pharmacist may ~~prescribe~~ order and dispense naloxone to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of naloxone to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist. For the purpose of this rule, the order shall constitute a prescription.

39.8(1) to 39.8(6) No change.

39.8(7) Records. An authorized pharmacist shall maintain records of naloxone ~~prescribed~~ ordered and dispensed pursuant to the statewide protocol.

ITEM 3. Amend rule 657—39.9(155A) as follows:

657—39.9(155A) Statewide protocol—nicotine replacement tobacco cessation products. An authorized pharmacist may ~~prescribe~~ order and dispense nicotine replacement tobacco cessation products to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of a nicotine replacement tobacco cessation product to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist. For the purpose of this rule, the order shall constitute a prescription.

39.9(1) to 39.9(6) No change.

39.9(7) Records. An authorized pharmacist shall maintain records of nicotine replacement tobacco cessation products ~~prescribed~~ ordered and dispensed pursuant to the statewide protocol.

ITEM 4. Amend rule 657—39.11(155A) as follows:

657—39.11(155A) Vaccine administration by pharmacists—statewide protocol. An authorized pharmacist may ~~prescribe~~ order and administer vaccines and immunizations pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the ~~prescribing~~ ordering and administration of a vaccine to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist. For the purpose of this rule, the order shall constitute a prescription.

39.11(1) No change.

39.11(2) Vaccines authorized by statewide protocol. The vaccines authorized to be ~~prescribed~~ ordered and administered pursuant to the statewide protocol shall include:

a. to *c.* No change.

39.11(3) and 39.11(4) No change.

39.11(5) Verification and reporting. Prior to the ~~prescribing~~ ordering and administration of an immunization pursuant to the statewide protocol, the authorized pharmacist shall consult and review the statewide immunization registry or health information network. As soon as reasonably possible following administration of a vaccine, the pharmacist shall report such administration to the patient's primary health care provider, primary physician, and a statewide immunization registry or health information network. If the patient does not have a primary health care provider, the pharmacist shall

PHARMACY BOARD[657](cont'd)

provide the patient with a written record of the vaccine administered to the patient and shall advise the patient to consult a physician.

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4584C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to military service and veteran reciprocity for fire extinguishing and alarm systems contractors and installers

The Public Safety Department hereby adopts new Chapter 278, "Military Service and Veteran Reciprocity for Fire Extinguishing and Alarm Systems Contractors and Installers," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The purpose of new Chapter 278, regarding military service and veteran reciprocity for fire extinguishing and alarm systems contractors and installers, is to lay out the process for a military service applicant to obtain credit for education, training, or service that can be applied toward licensure as a contractor or installer. The chapter also lays out the process for a veteran who is currently licensed in a different jurisdiction to obtain reciprocity in Iowa for that license.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4475C**. A public hearing was held on July 9, 2019. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have the authority to waive requirements established by statute. 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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

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

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 September 4, 2019.

The following rule-making action is adopted:

Adopt the following **new** 661—Chapter 278:

CHAPTER 278

MILITARY SERVICE AND VETERAN RECIPROCITY FOR FIRE EXTINGUISHING AND
ALARM SYSTEMS CONTRACTORS AND INSTALLERS

661—278.1(272C) Definitions. The following definitions apply to this chapter.

“*Department*” means the department of public safety.

“*Division*” means the state fire marshal division of the department of public safety.

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

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

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

661—278.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service, toward any experience or educational requirement for licensure, by submitting a military service application form to the division.

278.2(1) The military service application may be submitted with an application for licensure, or prior to applying for licensure. No fee is required for the submission of an application for military service credit.

278.2(2) The military service applicant shall identify the experience or educational licensure requirement for which the credit would be applied, if granted.

278.2(3) The military service applicant shall provide military transcripts, a certified affidavit, or documents that verify completion of the relevant military education, training, or service. These documents may include the military service applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

278.2(4) Upon receipt of a completed military service application, the division shall promptly determine whether the verified military education, training, or service will satisfy all or part of the identified experience or educational qualifications for licensure.

278.2(5) The division shall grant credit for the military service application, in whole or in part, if the division determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

278.2(6) The division shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The military service applicant may request reconsideration.

278.2(7) A military service applicant who is aggrieved by the division's decision may request a contested case (administrative hearing) and may participate in the contested case by telephone. A request for a contested case shall be made within 30 days of the issuance of the division's decision. There are no fees or costs assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

278.2(8) The division shall grant or deny the military service application prior to ruling on the application for licensure. The military service applicant shall not be required to submit any fees in connection with the licensure application unless the division grants the military service application. If the division does not grant the military service application, the military service applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year, unless otherwise mutually agreed upon. The withdrawal of a licensure application shall not preclude subsequent military service applications or licensure applications, supported by additional documentation or information.

661—278.3(272C) Veteran reciprocity.

278.3(1) A veteran with a fire protection or alarm system license in another jurisdiction may apply for licensure in Iowa through reciprocity, based on the reciprocity procedures for fire protection and alarm systems licensees as set out in the administrative rules in effect at the time that the military service application is made, and in compliance with any agreements with other jurisdictions regarding reciprocity. A fully completed licensure application submitted by a veteran under this subrule is to be given priority and is expedited.

278.3(2) A licensure application shall contain all of the information required of all military service applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity. This information includes, but is not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history and, if applicable, a criminal history background check. In addition, the veteran shall provide such documentation as is reasonably needed to verify the veteran's status as a veteran under Iowa Code section 35.1(2).

278.3(3) Upon receipt of a fully completed licensure application, the division shall promptly determine if the licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The division shall make this determination based on information supplied by the veteran and additional information the division may acquire from the applicable jurisdiction. The division may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

278.3(4) The division shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to the licensing requirements in Iowa, unless the veteran is ineligible for licensure based on other grounds, such as the veteran's disciplinary or criminal history.

278.3(5) If the division determines that the licensing requirements of the jurisdiction in which the veteran is licensed are not substantially equivalent to the licensing requirements in Iowa, the division shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the veteran is ineligible for licensure based on other grounds, such as disciplinary or criminal history, the following shall apply:

a. If a veteran has not obtained the required certification for licensure, the veteran may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year, or as mutually agreed upon, to provide the veteran with the opportunity to satisfy the certification requirements.

b. If additional experience or education is required for the veteran's qualifications to be considered substantially equivalent, the veteran may request that the division issue a provisional license

PUBLIC SAFETY DEPARTMENT[661](cont'd)

for a specified period of time, during which the veteran will successfully complete the necessary experience or education. The division shall issue a provisional license for a specified period of time upon such conditions as the division deems reasonably necessary to protect the health, welfare, or safety of the public unless the division determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the division shall notify the veteran in writing, explaining the decision, and shall inform the veteran of the steps the veteran may take in order to receive a provisional license.

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

278.3(6) A veteran who is aggrieved by the division's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in the contested case by telephone. A request for a contested case shall be made within 30 days of the issuance of the division's decision. There are no fees or costs assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement Iowa Code section 272C.4.

[Filed 7/12/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4585C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to excise tax rate on motor fuels

The Revenue Department hereby amends Chapter 68, "Motor Fuel and Undyed Special Fuel," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14 and 452A.59.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 452A.3.

Purpose and Summary

This rule making amends subrule 68.2(1) to adjust the excise tax rate on gasoline from 30.7¢ per gallon (ending June 30, 2019) to 30.5¢ per gallon (beginning July 1, 2019) pursuant to the formula prescribed by Iowa Code section 452A.3. The ethanol distribution percentage for calendar year 2018 is between 60 percent and 65 percent, a decrease from 2017. As a result, pursuant to Iowa Code section 452A.3(1)"b"(4), in fiscal year 2020 the excise tax rate for ethanol blended gasoline will remain 29¢ per gallon, but the excise tax rate for gasoline will decrease from 30.7¢ per gallon to 30.5¢ per gallon.

REVENUE DEPARTMENT[701](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4381C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on July 8, 2019.

Fiscal Impact

Under the excise tax rates applicable for fiscal year 2020 adopted in this rule making and as required by statute, it is estimated that, accounting for refunds, collections will be \$435.3 million, resulting in a decrease of \$1.1 million in revenues.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 September 4, 2019.

The following rule-making action is adopted:

Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through February 28, 2015)
	31¢ per gallon (for March 1, 2015, through June 30, 2015)
	30.8¢ per gallon (for July 1, 2015, through June 30, 2016)
	30.7¢ per gallon (for July 1, 2016, through June 30, 2017)
	30.5¢ per gallon (for July 1, 2017, through June 30, 2018)
	30.7¢ per gallon (beginning for July 1, 2018, through June 30, 2019)
	<u>30.5¢ per gallon (beginning July 1, 2019)</u>

REVENUE DEPARTMENT[701](cont'd)

Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through February 28, 2015) 29¢ per gallon (for March 1, 2015, through June 30, 2015) 29.3¢ per gallon (for July 1, 2015, through June 30, 2016) 29¢ per gallon (beginning July 1, 2016)
E-85 gasoline	17¢ per gallon (for January 1, 2006, through June 30, 2007) 19¢ per gallon (for July 1, 2007, through February 28, 2015) 29¢ per gallon (for March 1, 2015, through June 30, 2015) 29.3¢ per gallon (for July 1, 2015, through June 30, 2016) 29¢ per gallon (beginning July 1, 2016)
Aviation gasoline	8¢ per gallon (beginning July 1, 1988)
Diesel fuel other than B-11 or higher	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (beginning March 1, 2015)
Biodiesel blended fuel (B-11 or higher)	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (for March 1, 2015, through June 30, 2015) 29.5¢ per gallon (beginning July 1, 2015)
Aviation jet fuel	3¢ per gallon (on and before February 28, 2015) 5¢ per gallon (beginning March 1, 2015)
L.P.G.	20¢ per gallon (on and before February 28, 2015) 30¢ per gallon (beginning March 1, 2015)
C.N.G.	16¢ per 100 cu. ft. (on and before June 30, 2014) 21¢ per gallon (for July 1, 2014, through February 28, 2015) 31¢ per gallon (beginning March 1, 2015)
L.N.G.	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (beginning March 1, 2015)

[Filed 7/8/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4586C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver licensing

The Department of Transportation hereby amends Chapter 600, "General Information," Chapter 602, "Classes of Driver's Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.189 and 321.445.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.176, 321.177, 321.182, 321.189, 321.196 and 321.445 and 2019 Iowa Acts, Senate File 304, section 3.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This rule making makes technical changes to Chapters 600 and 605 by relocating rules currently found in Chapter 600, regarding persons exempt from driver's licensing requirements and persons not to be licensed, and placing those rules into Chapter 605. The goal of the amendments that relocate the affected rules from Chapter 600 to Chapter 605 is to gather all the rules relating to eligibility and ineligibility for issuance of a driver's license into Chapter 605 to save the reader from having to review multiple chapters for pertinent information related to driver's license issuance.

In addition, the amendments update the definition of "qualified medical professional" to refer to an advanced registered nurse practitioner as being "licensed," rather than "registered," by the Board of Nursing and match the definition in Iowa Code section 152.1. The amendments also amend subrule 605.11(2), which addresses criteria for replacing a driver's license, to require a licensee to notify the Department of a residential address change but not require the licensee to provide two forms of proof of address, which is required when applying for a new license pursuant to subrule 601.5(3). This change reduces the chance that a licensee will be turned away for not having the necessary documentation to be issued a duplicate license by aligning with current Department practice of not requiring two forms of proof of address when a licensee is issued a duplicate license.

The amendments rescind and do not transfer the content of existing subrule 600.4(9) to Chapter 605, but instead eliminate this subrule entirely. Currently, subrule 600.4(9) prohibits the Department from issuing a driver's license to a person who is named on a certificate of noncompliance issued by the College Student Aid Commission for failure to satisfy student debt. 2019 Iowa Acts, Senate File 304, section 3, which became effective July 1, 2019, eliminates the College Student Aid Commission's authority to issue a certificate of noncompliance and trigger a license suspension for failure to satisfy student debt by repealing Iowa Code sections 261.121 through 261.127. The College Student Aid Commission has not exercised the option to trigger a license suspension for failure to satisfy student debt since 2012. It did not make sense for the Department to transfer and perpetuate a subrule that is no longer authorized as of July 1, 2019, so subrule 600.4(9) was not included in the rule reorganization. The Department will make necessary changes to other chapters in a subsequent rule making in order to implement Senate File 304.

The amendments make other updates to Chapters 600 and 605 to correct an office name, a telephone number, and Iowa Code and rule citations. The amendments also make conforming changes to rule citations in Chapters 602, 604 and 607.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4476C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—600.1(321) as follows:

761—600.1(321) Definitions. The definitions in Iowa Code section 321.1 and the following definitions apply to the rules in 761—Chapters 600 to 699.

“Director of the ~~office of driver and identification services bureau~~” includes the ~~office~~ bureau director's designee.

“License” means “driver's license” as defined in Iowa Code ~~subsection~~ section 321.1(20A) unless the context otherwise requires.

“Medical report” means ~~a report from a qualified medical professional attesting to a person's physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a qualified medical professional on the qualified medical professional's letterhead may be accepted if it contains all the information specified on Form 430031.~~

“Qualified medical professional” means a person licensed as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and registered with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person's professional licensure.

This rule is intended to implement Iowa Code section 321.1.

ITEM 2. Amend rule 761—600.2(17A) as follows:

761—600.2(17A) Information and location. Applications, forms and information concerning driver's licensing are available at any driver's license ~~examination station~~ service center. Assistance is also available by mail from the ~~Office of Driver and Identification Services Bureau~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(800)532-1121 (515)244-8725~~; or by facsimile at ~~(515)237-3071 (515)239-1837~~; or on the department's website at www.iowadot.gov.

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

ITEM 3. Rescind rule **761—600.3(321)**.

ITEM 4. Rescind and reserve rule **761—600.4(252J,261,321)**.

ITEM 5. Renumber rule **761—600.16(321)** as **761—600.3(321)**.

ITEM 6. Amend renumbered rule 761—600.3(321) as follows:

761—600.3(321) Seat belt exemptions.

600.3(1) A person who is unable to wear a safety belt or safety harness for physical or medical reasons may obtain a form to be signed by the person's health care provider licensed under Iowa Code chapter 148 or 151. Form No. 432017, “Iowa Medical Safety Belt Exemption,” is available from the ~~office of driver and identification services at the address in rule 761—600.2(17A)~~ bureau.

TRANSPORTATION DEPARTMENT[761](cont'd)

600.3(2) Iowa Code section ~~321.445, subsections 1 and 2,~~ sections 321.445(1) and 321.445(2) shall not apply to the front seats and front seat passengers of motor vehicles owned, leased, rented or primarily used by a person with a physical disability who uses a collapsible wheelchair.

This rule is intended to implement Iowa Code section 321.445.

ITEM 7. Amend paragraph **602.12(1)“b”** as follows:

b. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule ~~605.4(3)~~ 605.7(3). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

ITEM 8. Amend subrule 602.21(2) as follows:

602.21(2) Requirement. An applicant must submit a medical report pursuant to ~~761—subrule 600.4(6)~~ as referenced in 761—subrule 605.4(6).

ITEM 9. Amend paragraph **604.31(1)“c”** as follows:

c. Class D driver’s licenses. For a Class D driver’s license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule ~~605.4(3)~~ 605.7(3), is required.

ITEM 10. Renumber rules ~~761—605.2(321)~~ to ~~761—605.6(321)~~ as ~~761—605.5(321)~~ to ~~761—605.9(321)~~.

ITEM 11. Adopt the following new rules 761—605.2(321) to 761—605.4(252J,321):

761—605.2(321) Definitions. The definitions in Iowa Code section 321.1 and the following definitions apply to this chapter.

“*License*” means “driver’s license” as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

“*Medical report*” means a report from a qualified medical professional attesting to a person’s physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a qualified medical professional on the qualified medical professional’s letterhead may be accepted if it contains all the information specified on Form 430031.

“*Qualified medical professional*” means a person licensed as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and licensed with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person’s professional licensure.

This rule is intended to implement Iowa Code section 321.1.

761—605.3(321) Persons exempt.

605.3(1) Persons listed in Iowa Code section 321.176 are exempt from driver’s licensing requirements.

605.3(2) “Nearby” in Iowa Code section 321.176(2) shall mean a distance of not more than two miles.

This rule is intended to implement Iowa Code section 321.176.

761—605.4(252J,321) Persons not to be licensed.

605.4(1) The department shall not knowingly issue a license to any person who is ineligible for licensing.

605.4(2) The department shall not knowingly license any person who is unable to operate a motor vehicle safely because of physical or mental disability until that person has submitted a medical report stating that the person is physically and mentally capable of operating a vehicle safely.

605.4(3) The department shall not knowingly license any person who has been specifically adjudged incompetent, pursuant to Iowa Code chapter 229, on or after January 1, 1976, including anyone admitted to a mental health facility prior to that date and not released until after, until the department receives specific adjudication that the person is competent. A medical report stating that the person is physically qualified to operate a motor vehicle safely shall also be required.

TRANSPORTATION DEPARTMENT[761](cont'd)

605.4(4) The department shall not knowingly license any person who suffers from syncope of any cause, any type of periodic or episodic loss of consciousness, or any paroxysmal disturbances of consciousness, including but not limited to epilepsy, until that person has not had an episode of loss of consciousness or loss of voluntary control for six months, and then only upon receipt of a medical report favorable toward licensing.

a. If a medical report indicates a pattern of only syncope, the department may license without a six-month episode-free period after favorable recommendation by the medical advisory board.

b. If a medical report indicates a pattern of such episodes only when the person is asleep or is sequestered for sleep, the department may license without a six-month episode-free period.

c. If an episode occurs when medications are withdrawn by a qualified medical professional, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the qualified medical professional is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a qualified medical professional.

605.4(5) The department shall not license any person who must wear bioptic telescopic lenses to meet the visual acuity standard required for a license.

605.4(6) When a medical report is required, a license shall be issued only if the report indicates that the person is qualified to operate a motor vehicle safely. The department may submit the report to the medical advisory board for an additional opinion.

605.4(7) When the department receives evidence that an Iowa licensed driver has been adjudged incompetent or is not physically or mentally qualified to operate a motor vehicle safely, the department shall suspend the license for incapability, as explained in rule 761—615.14(321), or shall deny further licensing, as explained in rule 761—615.4(321).

605.4(8) The department shall not knowingly issue a license to a person who is the named individual on a certificate of noncompliance that has been received from the child support recovery unit, until the department receives a withdrawal of the certificate of noncompliance or unless an application has been filed pursuant to Iowa Code section 252J.9.

This rule is intended to implement Iowa Code sections 252J.8, 252J.9, 321.13, 321.177, 321.210, and 321.212.

ITEM 12. Amend renumbered rule 761—605.5(321), introductory paragraph, as follows:

761—605.5(321) Contents of license. In addition to the information specified in Iowa Code ~~subsection~~ section 321.189(2), the following information shall be shown on a driver's license.

ITEM 13. Amend renumbered subparagraph **605.8(6)“b”(1)** as follows:

(1) If a person is licensed pursuant to ~~761—subrule 600.4(4)~~ subrule 605.4(4), the department shall issue the first driver's license with a restriction stating: “Medical report to be furnished at the end of six months.”

ITEM 14. Renumber existing rule **761—605.9(321)** as **761—605.10(321)**.

ITEM 15. Amend paragraph **605.11(2)“b”** as follows:

b. Replacement to change the current residential address on a license. The licensee shall ~~comply with the requirements of 761—subrule 601.5(3) to establish a change of current residential address~~ notify the department to establish the current residential address.

ITEM 16. Amend paragraph **605.11(2)“j”** as follows:

j. Replacement to add a veteran designation to the license. To be eligible for a veteran designation, the licensee must comply with the requirements of paragraph ~~605.2(7)“e.”~~ 605.5(7)“e.”

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 17. Amend rule 761—607.18(321), introductory paragraph, as follows:

761—607.18(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver's license are listed in 761—subrule ~~605.5(3)~~ 605.8(3) and are explained below:

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

ARC 4587C

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Rule making related to county of residence upon discharge

The Commission on Veterans Affairs hereby amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 35D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2445.

Purpose and Summary

An amendment is required due to the enactment of House File 2445 during the 2018 Legislative Session. This rule making updates wording regarding county of settlement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4370C**. 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 July 10, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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 rule 801—4.14(17A,35D).

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making action is adopted:

Amend rule 801—10.41(35D) as follows:

801—10.41(35D) County of ~~settlement~~ residence upon discharge. A member does not acquire legal ~~settlement~~ residency in Marshall County, the county in which IVH is located, unless the member is voluntarily or involuntarily discharged from IVH, ~~continuously resides in the county for a period of one year subsequent to the discharge and during that year is not readmitted to IVH and does not receive any services from IVH~~ and the member meets county of residence requirements. For purposes of this rule, "county of residence" means the same as defined in Iowa Code section 331.394.

[Filed 7/10/19, effective 9/4/19]

[Published 7/31/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.

AGENCY	RULE	DELAY
Public Health Department[641]	Items 1, 4, 7, 10, 11, 12, 13, 15, 21, 22, 24 [IAB 6/5/19, ARC 4489C]	Effective date of July 10, 2019, delayed until the adjournment of the 2020 session of the General Assembly by the Administrative Rules Review Committee at its meeting held June 11, 2019. [Pursuant to §17A.8(9)]