



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2017

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 11, 2017	August 30, 2017
6	Wednesday, August 23, 2017	September 13, 2017
7	Friday, September 8, 2017	September 27, 2017

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, August 4, 2017, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the July 19, 2017, Iowa Administrative Bulletin.

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”

Attest services; CPA firm licensure; definition of “state”; review of rules, amendments to chs
1, 6 to 8, 10, 13, 14, 20, 21 Notice **ARC 3224C** 8/2/17
Rules of professional ethics and conduct, 3.15, ch 13, 14.3 Filed **ARC 3230C** 8/2/17

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Military leave, 63.9 Filed **ARC 3231C** 8/2/17

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Licensure—egg handlers, milk haulers, milk graders, bulk milk tankers, can milk truck
bodies, pesticide dealers, amendments to chs 36, 45, 63, 68 Filed **ARC 3232C** 8/2/17

EARLY CHILDHOOD IOWA STATE BOARD[249]

Early childhood Iowa initiative, 1.3, 1.4(2), 1.6(2), 1.8 Filed **ARC 3249C** 8/2/17

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

911 telephone systems, amendments to ch 10 Filed **ARC 3233C** 8/2/17

HUMAN SERVICES DEPARTMENT[441]

Time frame for HCBS waiver services eligibility, amendments to ch 83 Filed **ARC 3234C** 8/2/17

INSPECTIONS AND APPEALS DEPARTMENT[481]

Dependent adult abuse in facilities and programs—personal degradation, 52.1 Filed **ARC 3235C** 8/2/17
Factors determining imposition of citation and fine, 56.7, 56.10 Notice **ARC 3222C** 8/2/17

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits, 12.1(2), 12.2(2) Notice **ARC 3225C** 8/2/17

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Child labor permit—proof of age, 32.2(2)“a” Notice **ARC 3220C** 8/2/17

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Telepharmacy practice, amend 8.35(2); adopt ch 13 Filed **ARC 3236C** 8/2/17
Nuclear pharmacy practice, 16.1 to 16.4, 16.6, 16.8 Notice **ARC 3228C** 8/2/17
Nonresident pharmacy practice, ch 19 Filed **ARC 3237C** 8/2/17
Compounding practices; outsourcing facilities, amend ch 20; adopt ch 41 Filed **ARC 3238C** 8/2/17

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Optometrists—application for licensure, contact lens and spectacle lens prescriptions,
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Physical therapists and physical therapist assistants, occupational therapists and occupational
therapy assistants—licensure, amendments to chs 200, 206 Notice **ARC 3221C** 8/2/17

PUBLIC HEALTH DEPARTMENT[641]

General nuclear medicine technologist permit—computed tomography endorsement, 42.2,
42.6(4) Filed **ARC 3239C** 8/2/17
Trauma care facility categorization and verification, 134.1 to 134.3 Filed **ARC 3240C** 8/2/17
Trauma education and training, 137.1 to 137.4 Filed **ARC 3241C** 8/2/17

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Licensure of brokers, salespersons and nonresident licensees, amendments to chs 3 to 5
Filed **ARC 3242C** 8/2/17

REGENTS BOARD[681]

Promotional and lead worker pay; grievance procedure, 3.39, 3.129
Filed Emergency After Notice **ARC 3229C** 8/2/17

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”
State soil and water quality committee—change of committee name, definition of
“edge-of-field practice,” mineral mining license renewal and fee, amendments to chs 1 to
3, 10 to 12, 20 to 22, 30, 40, 50, 60 Filed **ARC 3243C** 8/2/17
Water protection practices funds, amendments to ch 12 Filed **ARC 3244C**..... 8/2/17

TRANSPORTATION DEPARTMENT[761]

Real property acquisition and relocation assistance—adoption by reference of section II of
uniform manual, 111.1 Filed **ARC 3245C** 8/2/17
General requirements and covenants for highway and bridge construction, rescind ch 125
Notice **ARC 3219C** 8/2/17

UTILITIES DIVISION[199]

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Energy efficiency planning and reporting for non-rate-regulated gas and electric utilities,
amendments to ch 36 Filed **ARC 3246C**..... 8/2/17

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance services division; employer records, reports, contributions and
charges; claims; benefits; benefit payment control, amendments to chs 21 to 25 Filed **ARC 3247C**..... 8/2/17
Employer reports; claims; benefits; benefit payment control, amendments to chs 22, 24, 25
Filed **ARC 3248C**..... 8/2/17
Procedures for department interaction with employers and claimants; updates related to
technology, amendments to ch 23 Notice **ARC 3226C** 8/2/17
Unemployment appeal process, amendments to ch 26 Notice **ARC 3227C**..... 8/2/17

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 Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

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

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Art Staed
2141 Coldstream Avenue NE
Cedar Rapids, Iowa 52402

Senator Jack Whitver
4019 NE Bellagio Circle
Ankeny, Iowa 50021

Representative Guy Vander Linden
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Des Moines, Iowa 50319
Telephone (515)281-5211

ACCOUNTANCY EXAMINING BOARD[193A]

Attest services; CPA firm licensure; definition of “state”; review of rules, amendments to chs 1, 6 to 8, 10, 13, 14, 20, 21 IAB 8/2/17 ARC 3224C	Professional Licensing and Regulation Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	August 28, 2017 1 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Bacteria water quality criteria; Iowa wasteload allocation (WLA) procedure, 61.2(4), 61.3, 62.8 IAB 7/19/17 ARC 3202C	State Bank Room Washington Public Library 115 W. Washington St. Washington, Iowa	September 5, 2017 4 p.m.
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Meeting Room B Urbandale Public Library 3520 86th St. Urbandale, Iowa	September 6, 2017 4 p.m.
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Harlan Community Library 718 Court St. Harlan, Iowa	September 7, 2017 4 p.m.
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INSURANCE DIVISION[191]

Regulation of securities offerings and those who engage in the securities business, 50.66, 50.91, 50.92 IAB 7/19/17 ARC 3200C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	August 8, 2017 2 p.m.
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IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits, 12.1(2), 12.2(2) IAB 8/2/17 ARC 3225C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	August 22, 2017 9 a.m.
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LABOR SERVICES DIVISION[875]

Child labor permit—proof of age, 32.2(2)“a” IAB 8/2/17 ARC 3220C	150 Des Moines St. Des Moines, Iowa	August 23, 2017 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Optometrists—application for licensure, contact lens and spectacle lens prescriptions, 180.2(1), 182.3 IAB 8/2/17 ARC 3223C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 22, 2017 8:30 to 9 a.m.
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Physical therapists and physical therapist assistants, occupational therapists and occupational therapy assistants—licensure, amendments to chs 200, 206 IAB 8/2/17 ARC 3221C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 22, 2017 8 to 8:30 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Medical cannabidiol Act registration card program, 154.1 to 154.14 IAB 7/5/17 ARC 3151C	Rooms 517 and 518 Lucas State Office Bldg. Des Moines, Iowa	August 9, 2017 1 to 3 p.m.
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Standards for electrical work—2017 National Electrical Code (NEC), 100.1 IAB 7/5/17 ARC 3153C	Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	August 17, 2017 10 a.m.
Consumer fireworks sales licensing and safety standards, ch 265 IAB 6/21/17 ARC 3123C	Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	September 8, 2017 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Highway project planning, rescind ch 110 IAB 7/19/17 ARC 3201C	North Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	August 10, 2017 10 a.m. (If requested)
General requirements and covenants for highway and bridge construction, rescind ch 125 IAB 8/2/17 ARC 3219C	South Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	August 24, 2017 10 a.m. (If requested)

UTILITIES DIVISION[199]

Equipment distribution program, 37.1 to 37.6 IAB 6/21/17 ARC 3119C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 16, 2017 10 a.m.
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The following list will be updated as changes occur.

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

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

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

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Flood Mitigation Assistance (FMA) 2017

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Flood Mitigation Assistance Competitive (FMA) Grant for Fiscal Year (FY) 2017 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p> <p>The FMA program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the FMA program, use the following link on HSEMD’s website: http://www.fema.gov/hazard-mitigation-assistance</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by October 13, 2017. To learn more about the e-grant system use the following link on HSEMD’s website: https://portal.fema.gov/famsVuWeb/home</p> <p>For additional information please contact:</p> <p style="text-align: center;">Aimee Bartlett 515-725-9364 Dan Schmitz 515-725-9369</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road; Suite 500 Windsor Heights, IA 50324</p> <p style="text-align: center;">TECHNICAL ASSISTANCE HELP DESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov bchelp@hsemd.gov ehhelpline@dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project; • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE: Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

Pre-Disaster Mitigation (PDM) 2017

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Pre-Disaster Mitigation Competitive (PDM) Grant for Fiscal Year (FY) 2017 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p> <p>The PDM program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the PDM program, use the following link on HSEMD’s website: http://www.fema.gov/hazard-mitigation-assistance</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by October 13, 2017. To learn more about the e-grant system use the following link on HSEMD’s website: https://portal.fema.gov/famsVuWeb/home</p> <p>For additional information please contact:</p> <p style="text-align: center;">Aimee Bartlett 515-725-9364 Dan Schmitz 515-725-9369</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road; Suite 500 Windsor Heights, IA 50324</p> <p style="text-align: center;">TECHNICAL ASSISTANCE HELP DESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov bchelpline@dhs.gov ehhelpline@dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Construction of safe rooms (tornado and severe wind shelters); • Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/ analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project; • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE: Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

ARC 3224C

ACCOUNTANCY EXAMINING BOARD[193A]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board (Board) hereby gives Notice of Intended Action to amend Chapter 1, “Definitions,” Chapter 6, “Attest and Compilation Services,” Chapter 7, “Certified Public Accounting Firms,” Chapter 8, “Licensed Public Accounting Firms,” Chapter 10, “Continuing Education,” Chapter 13, “Rules of Professional Ethics and Conduct,” Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Chapter 20, “Practice Privilege for Out-of-State Certified Public Accountants,” and Chapter 21, “Practice Privilege for Out-of-State Certified Public Accounting Firms,” Iowa Administrative Code.

These proposed amendments update the Board’s rules to reflect changes enacted by 2017 Iowa Acts, Senate File 237, which amends Iowa Code chapter 542 to authorize out-of-state certified public accounting firms (CPA firms) exercising a practice privilege to perform all forms of attest services, as opposed to only review and compilation services as previously authorized. These proposed amendments also update the Board’s rules to allow CPA firms to designate nonlicensee owners as the individuals responsible for CPA firm licensure, consistent with 2017 Iowa Acts, Senate File 237. The proposed amendments also amend the Board’s rules to include the Commonwealth of the Northern Mariana Islands within the definition of the term “state,” consistent with 2017 Iowa Acts, Senate File 237.

The proposed amendments reflect partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before August 28, 2017. Comments should be directed to Robert Lampe, Executive Officer, Iowa Accountancy Examining Board, 200 E. Grand, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to robert.lampe@iowa.gov.

A public hearing will be held at 1 p.m. on Monday, August 28, 2017, at the offices of the Professional Licensing and Regulation Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

There is no fiscal impact. No current fees are being changed, and no new fees are being imposed.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments were approved at the June 21, 2017, regular meeting of the Board.

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

These amendments are intended to implement Iowa Code chapter 542 as amended by 2017 Iowa Acts, Senate File 237.

The following amendments are proposed.

ITEM 1. Amend rule **193A—1.1(542)**, definition of “State,” as follows:

“*State*” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam.

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 2. Amend subrule 6.1(3) as follows:

6.1(3) CPAs performing attest services, whether the CPAs are certified in Iowa or exercising a practice privilege, must do so in a CPA firm that holds a permit to practice pursuant to Iowa Code section 542.7. ~~However, a CPA exercising a practice privilege who works for or in an out-of-state CPA firm that does not hold a permit to practice under Iowa Code section 542.7 may provide review services in Iowa or for a client with a home office in Iowa as long as the firm complies~~ exercising a practice privilege in compliance with Iowa Code section 542.20, subsections 5 and 6, sections 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7.

ITEM 3. Amend paragraph **6.3(3)“c”** as follows:

c. Out-of-state CPAs performing attest services while exercising a practice privilege under Iowa Code section 542.20 are not required to individually apply to the board for attest qualification, ~~but the~~ However, if:

(1) CPAs perform attest services in an Iowa CPA firm in which such attest services are performed, the Iowa CPA firm shall affirm when applying for an initial or renewal firm permit to practice that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

(2) CPAs perform attest services through an out-of-state CPA firm exercising a practice privilege, the out-of-state CPA firm shall affirm upon request from the board that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

ITEM 4. Amend paragraph **7.1(5)“a”** as follows:

a. ~~Designate an Iowa CPA or a person with a practice privilege under Iowa Code section 542.20 a nonlicensee owner~~ who is responsible for the proper licensure of the firm and the firm's compliance with all applicable laws and rules of the state;

ITEM 5. Amend subrule 7.1(6) as follows:

7.1(6) An out-of-state CPA firm exercising a practice privilege may perform ~~review~~ attest services in Iowa or for a client with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the firm is validly licensed in the state of its principal place of business, complies with Iowa Code section 542.20, subsections 5 and 6, as amended by 2012 Iowa Acts, Senate File 2122, sections 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7.

ITEM 6. Amend subrule 7.3(11) as follows:

7.3(11) Affirmation that all CPAs or LPAs who are responsible for supervising compilation services or who sign or authorize someone to sign the accountant's compilation report ~~on the financial statements~~ on behalf of the firm comply with nationally recognized professional standards that are applicable to the compilation services performed in Iowa or for a client with a home office in Iowa.

ITEM 7. Amend subrule 8.1(7) as follows:

8.1(7) The application shall affirm that all nonlicensee owners are of good moral character and active participants in the firm or an affiliated entity.

ITEM 8. Amend subrule 10.7(1) as follows:

10.7(1) Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report ~~on the financial statements~~ on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. When required, the financial statement presentation continuing education shall be completed within the three-year period ending on the December 31 or

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June 30 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) shall be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.

ITEM 9. Amend subrule 13.4(2) as follows:

13.4(2) Practice privilege. All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa must be performed through a CPA firm that holds an active Iowa firm permit to practice; ~~provided that, or through~~ an out-of-state CPA firm exercising a practice privilege ~~may perform review services in Iowa or for a client with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the firm complies in compliance~~ with Iowa Code sections 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7. Unless Iowa certification is specifically required by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. LPAs and LPA firms are not authorized to perform attest services.

ITEM 10. Amend subrule 13.5(3) as follows:

13.5(3) Mandatory financial statement presentation continuing professional education. In each renewal period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report ~~on the financial statements~~ on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing education devoted to financial statement presentation every three years, such as courses covering the Statements on Standards for Accounting and Review Services (SSARS) and accounting and auditing updates. This requirement is more fully described in 193A—subrule 10.7(1).

ITEM 11. Amend paragraph **14.3(5)“c”** as follows:

c. Performing attest services as an individual without proper certification or attest qualification, or without acting through a CPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20.

ITEM 12. Amend paragraph **14.3(5)“d”** as follows:

d. Performing attest services as a firm without holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20, or without ensuring that the individuals responsible for supervising attest services or signing or authorizing someone to sign the accountant's report are attest qualified, hold the required certification or are eligible to exercise a practice privilege, or otherwise performing attest services in a manner inconsistent with Iowa Code chapter 542 ~~and 193A—Chapters 6 and 7~~ or the rules of the board.

ITEM 13. Amend rule 193A—20.5(542) as follows:

193A—20.5(542) Attest and compilation services.

20.5(1) Individuals providing audit, review or other attest services in Iowa or for a client with a home office in Iowa must practice through a CPA firm that holds an active permit to practice pursuant to Iowa Code section 542.7; ~~provided that, or through~~ an out-of-state CPA firm exercising a practice privilege ~~may perform review services in Iowa or for a client~~ with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the out-of-state firm is validly licensed in the state of its principal place of business, complies with Iowa Code section 542.20, subsections 5 and 6, as amended by 2012 Iowa Acts, Senate File 2122, sections 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7. Unless Iowa certification is specifically required by a governmental body or client, individual CPAs performing such attest services through an out-of-state CPA firm may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. Individuals who provide such attest

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

services in Iowa or for a client with a home office in Iowa through an out-of-state CPA firm exercising a practice privilege must provide such services through a certified public accounting firm that is validly licensed in the state of its principal place of business, complies with Iowa Code sections 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7.

20.5(2) Individuals providing compilation services in Iowa or for a client with a home office in Iowa must comply with the peer review provisions of Iowa Code section 542.6(6), or provide such services through a CPA or LPA firm, or a substantially equivalent firm that holds a valid license in the firm's principal place of business and that complies with the peer review and ownership provisions of Iowa Code section 542.7 or 542.8.

~~**20.5(3)** Individuals who provide reviews of financial statements, as provided in Iowa Code section 542.3, subsection 1, in Iowa or for a client with a home office in Iowa must provide such services through a certified public accounting firm that is validly licensed in the state of its principal place of business and that complies with the peer review and ownership provisions of Iowa Code section 542.7.~~

ITEM 14. Amend subrule 21.3(2) as follows:

21.3(2) Iowa licensure is required if:

~~*a.* The firm performs or offers to perform attest services, other than review services, in Iowa or for a client with a home office in Iowa; or~~

b. ~~The~~ the firm has one or more offices in Iowa at which the firm uses the title "CPAs," "CPA firm," "certified public accountants," or "certified public accounting firm."

ITEM 15. Rescind rule 193A—21.5(542) and adopt the following new rule in lieu thereof:

193A—21.5(542) Attest and compilation services. Unless otherwise required by rule 193A—21.3(542), attest and compilation services may be performed by an out-of-state CPA firm exercising a practice privilege as long as the out-of-state firm is validly licensed in the state of its principal place of business, complies with Iowa Code sections 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7.

ARC 3222C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 56, "Fining and Citations," Iowa Administrative Code.

Item 1 makes a technical correction to rule 481—56.7(135C) by correcting a reference to the Director of the Department of Inspections and Appeals.

Item 2 rescinds current rule 481—56.10(135C), Factors determining imposition of citation and fine, and adopts a new rule on the same subject. The proposed rule clarifies the process by which fines imposed against health care facilities for violations of state rules are calculated. The proposed rule also provides a clear and transparent method for calculating the amount of a state fine for a Class I violation and provides related explanations for the calculations.

The proposed amendment in Item 2 is the result of a kaizen event held by the Department during which the calculation of state fines was reviewed and discussed. Included among the kaizen participants was a representative from a long-term care association. One of the most commonly heard complaints

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

from long-term care providers is the lack of transparency in the calculation of state fines, especially those associated with Class I violations. As a result of the kaizen, a chart was developed that will clearly indicate how fines associated with Class I violations are calculated.

Prior to submission of this Notice of Intended Action, the proposed amendments were shared with providers for comment.

The Department does not believe that the proposed amendments will pose any financial hardship on any regulated entity or individual.

The State Board of Health initially reviewed the proposed amendments at its July 12, 2017, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 22, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Third Floor, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendments are proposed.

ITEM 1. Amend rule 481—56.7(135C) as follows:

481—56.7(135C) Notation of classes of violations. All rules relating to health care facilities, other than those which are informational in character, shall be followed by a notation at the end of each rule, or pertinent part thereof. This notation shall consist of a Roman numeral or numerals in parentheses. These Roman numerals refer to the class (either class I, class II, or class III) of violation which may be cited by the ~~commissioner~~ director of the department of inspections and appeals when that rule, or a part of a that rule carrying the notation is violated by the facility.

ITEM 2. Rescind rule 481—56.10(135C) and adopt the following **new** rule in lieu thereof:

481—56.10(135C) Factors determining imposition of citation and fine.

56.10(1) The director of the department of inspections and appeals may consider evidence of the circumstances surrounding the violation including, but not limited to, those factors set out in rule 481—56.9(135C) when:

- a. Determining whether a violation will be subject to a fine or citation; and
- b. Determining the monetary amount of the penalty to be specified in the citation, when such a fine is authorized to be levied for a particular class of violation.

56.10(2) If it is determined that a violation shall be cited as a class I violation, the following chart shall be used by the department when calculating the fine amount. The amount of the fine shall be the sum total of the calculated fine amounts for each factor to be considered. In no circumstance shall the total fine imposed for a single class I violation be less than \$2,000 or more than \$10,000.

Class I Fine Calculation

Factors to Be Considered	Associated Fine and Related Explanation	Calculated Fine
Frequency and length of time the violation occurred, as specified in subrule 56.9(1)	Duration of violation: • If 30 days or less, add \$250. • If more than 30 days, add \$500. Breadth of violation: • One resident impacted, add \$250. • More than one resident impacted, add \$500.	\$
Past history of the facility, as specified in subrule 56.9(2)	Same violation of rule or related rule cited within the past 24 months, add \$500.	\$
Culpability of the facility, as specified in subrule 56.9(3)	Degree of culpability of facility as it relates to the reason the violation occurred, add \$0 to \$500. ¹	\$
Extent of any harm to a resident, as specified in subrule 56.9(4)	• Death, imminent danger or substantial probability of death, add \$6,000 to \$8,500. • Moderate to severe physical harm, imminent danger or	\$

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

	substantial probability of moderate to severe physical harm, add \$3,000 to \$7,500. • Minor to moderate physical harm, imminent danger or substantial probability of minor to moderate physical harm, add \$1,000 to \$3,000.	
Relationship of the violation to any other types of violations, as specified in subrule 56.9(5)	• One or more related class II or class III violations cited, add \$250. • One or more related class I violations cited, add \$500. ²	\$
Actions of the facility after the occurrence of the violation, as specified in subrule 56.9(6)	• Good-faith corrective actions taken although violation not appropriately corrected, add \$250. • Corrective actions not taken or the facility failed to notify the director as required, add \$500.	\$
Accuracy and extent of records kept by the facility, as specified in subrule 56.9(7)	Records maintained by the facility contain pertinent inaccuracies or omissions or were unavailable to the department, add \$500.	\$
Rights of the residents to make informed decisions, as specified in subrule 56.9(8)	Residents' rights to make informed decisions were not respected, add \$500.	\$
Whether the facility made a good-faith effort to address a high-risk resident's needs, as specified in subrule 56.9(9)	Evidence indicates the facility did not make a good-faith effort to address a high-risk resident's specific needs, add \$500.	\$
Additional circumstances surrounding the violation, as specified in rule 481—56.9(135C)	Cite any additional circumstances considered and any associated fine amount.	\$
Total Calculated Class I Fine Amount		\$

¹ For example, the culpability of a facility may range from acts or omissions that are inadvertent or negligent to acts or omissions that intentionally disregard known or obvious risks and make it highly probable that the outcome would cause harm to a resident.

² For example, a violation related to pressure sores could be correlated to a violation related to the use of restraints or failure to provide incontinent care.

ARC 3225C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.35, and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the 9% Qualified Allocation Plan (QAP) for the allocation of 9 percent low-income housing tax credits with a revised 2018 9% Qualified Allocation Plan.

The updated 2018 9% QAP sets forth the purposes of the plan, the administrative information required for participation, threshold criteria, selection criteria, post reservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the updated 2018 9% QAP by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.35.)

The Authority will receive written comments on the proposed amendments and on the qualified allocation plan until 4:30 p.m. on August 22, 2017. Comments may be addressed to Dave Vaske, Low-Income Housing Tax Credit Manager, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to (515)725-4941 or e-mailed to dave.vaske@iowa.gov.

The Authority will hold a public hearing on August 22, 2017, to receive public comments on these amendments and on the proposed 2018 9% Qualified Allocation Plan. The public hearing will be held at 9 a.m. at the Authority's offices, located at 2015 Grand Avenue, Des Moines, Iowa.

The Authority anticipates that it may make changes to the qualified allocation plan based on comments received from the public.

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit program has a substantial positive impact on job creation in Iowa with many jobs created annually in the construction, finance, and property management fields, among others.

These amendments are intended to implement Iowa Code sections 16.5(1)“r,” 16.35, 17A.12, and 17A.16 and IRC Section 42.

The following amendments are proposed.

ITEM 1. Amend subrule 12.1(2) as follows:

12.1(2) *Nine percent qualified allocation plan.* The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2017~~ 2018 Qualified Allocation Plan (“9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~September 7, 2016~~ July 12, 2017.

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) *9% QAP.* The 9% QAP can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the 9% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 7, 2016~~ July 12, 2017. Additionally, the 9% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

ARC 3220C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 92.21, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 32, “Child Labor,” Iowa Administrative Code.

As part of the process of obtaining a child labor permit, proof of age must be submitted. The acceptable documents for proof of age are set forth in both Iowa Code section 92.11 and 875—paragraph

LABOR SERVICES DIVISION[875](cont'd)

32.2(2)“a.” 2016 Iowa Acts, House File 2274, amended the list of acceptable documents in Iowa Code section 92.11(2) to include a driver’s instruction permit. This proposed amendment removes the list of acceptable documents from paragraph 32.2(2)“a” and replaces it with a reference to the statutory list.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on August 22, 2017, a public hearing will be held on August 23, 2017, at 9 a.m. at 150 Des Moines Street, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)725–5615 before the meeting to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted no later than August 23, 2017, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code chapter 92.

The following amendment is proposed.

Amend paragraph **32.2(2)“a”** as follows:

a. The minor, parent, guardian, or custodian shall obtain ~~one of the following documents~~ evidence as set forth in Iowa Code section 92.11(2) establishing the minor’s age:

~~(1) A certified copy of the minor’s birth certificate, if it is available.~~

~~(2) If a certified copy of the minor’s birth certificate is not available, the minor’s passport or a certified copy of the minor’s baptismal record.~~

~~(3) If the documents listed in (1) and (2) are not available, one of the following documents shall be used:~~

~~1. A visa issued by the U.S. government.~~

~~2. A resident alien card issued by the U.S. government.~~

~~3. A physician’s affidavit certifying the minor’s age. A sample physician’s affidavit is available at the labor division’s Web site.~~

ARC 3228C

PHARMACY BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 16, “Nuclear Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the June 28, 2017, regular meeting of the Board of Pharmacy.

Pursuant to Iowa Code section 17A.7(2), the Board has conducted an overall review of this chapter of administrative rules. The Board preemptively sought comments and suggestions from those in the field of nuclear pharmacy in identifying the amendments. The proposed amendments provide alignment with the Iowa Department of Public Health and the Nuclear Regulatory Commission with respect to definitions and training requirements for authorized nuclear pharmacists. The amendments also clarify the type of license issued to nuclear pharmacies and incorporate federal minimum standards for sterile compounding, consistent with other rule making by the Board.

PHARMACY BOARD[657](cont'd)

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on August 22, 2017. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

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

These amendments are intended to implement Iowa Code section 155A.13.

The following amendments are proposed.

ITEM 1. Amend rule 657—16.1(155A) as follows:

657—16.1(155A) Purpose and scope. ~~It is unlawful to receive, possess or transfer radioactive drugs except in accordance with the provisions of Iowa Code chapter 155A. It is also unlawful for any person to provide radiopharmaceutical services unless the person is a pharmacist or a person acting under the direct supervision of a pharmacist acting in accordance with the provisions of Iowa Code chapter 155A, board rules and rules of the environmental protection commission. It is not unlawful for a medical practitioner to receive, possess, or transfer radioactive drugs for administration to patients as provided in Iowa Code chapter 148. No person may receive, acquire, possess, use, transfer, or dispose of any radioactive material except in accordance with the conditions set forth by the environmental protection commission pursuant to the provisions of Iowa Code chapter 455B. The requirements of these nuclear pharmacy rules are in addition to and not in substitution for 657—Chapter 8 and other applicable provisions of rules of the board and the environmental protection commission or the public health department. This chapter establishes the minimum standard for the practice of pharmacy relating to radiopharmaceutical drugs. These rules apply to individuals authorized to receive, handle, transfer, dispense, or dispose of radiopharmaceutical drugs pursuant to Iowa Code chapters 155A, 148, and 455B, and rules of the board, the environmental protection commission, or the public health department. For pharmacies, these rules are in addition to other applicable chapters of rules of the board including, but not limited to, 657—Chapters 8 and 20.~~

ITEM 2. Amend rule **657—16.2(155A)**, definition of “Board,” as follows:

“*Board*” means the Iowa board of pharmacy examiners.

ITEM 3. Amend rule **657—16.2(155A)**, definition of “Qualified nuclear pharmacist,” as follows:

“*Qualified Authorized nuclear pharmacist*” means a person currently licensed to practice pharmacy in Iowa who meets the qualifications established by rule 657—16.3(155A).

ITEM 4. Amend rule 657—16.3(155A) as follows:

657—16.3(155A) General Training requirements for qualified authorized nuclear pharmacist. ~~A qualified~~ An authorized nuclear pharmacist shall meet all requirements of ~~either alternative one or alternative two established in subrules 16.3(1) and 16.3(2), respectively~~ the United States Nuclear Regulatory Commission pursuant to federal regulations.

~~**16.3(1) Alternative one.** A qualified nuclear pharmacist shall:~~

~~*a.*—Meet minimum standards of training for medical uses of radioactive materials; and~~

~~*b.*—Be a currently licensed pharmacist in the state of Iowa; and~~

~~*c.*—Submit an affidavit of experience and training to the board; and~~

~~*d.*—Have completed one of the following nuclear pharmacy training alternatives:~~

~~(1) Received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy from an accredited college of pharmacy. In addition, the pharmacist shall have attained a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy that provides nuclear pharmacy services or in a structured clinical nuclear pharmacy training program of an accredited college of pharmacy.~~

~~(2) Successfully completed a nuclear pharmacy residency accredited by the American Society of Health System Pharmacists (ASHP).~~

PHARMACY BOARD[657](cont'd)

~~(3) Successfully completed a certificate program in nuclear pharmacy accredited by the Accreditation Council on Pharmaceutical Education (ACPE).~~

~~16.3(2) Alternative two. A qualified nuclear pharmacist shall:~~

~~a. Be a currently licensed pharmacist in the state of Iowa; and~~

~~b. Be certified by the Board of Pharmaceutical Specialties as a board-certified nuclear pharmacist (BCNP); and~~

~~c. Submit an affidavit of BCNP credentials to the board.~~

ITEM 5. Amend rule 657—16.4(155A) as follows:

657—16.4(155A) General requirements for pharmacies a pharmacy providing radiopharmaceutical services. A pharmacy providing radiopharmaceutical services shall obtain a limited use pharmacy license pursuant to rule 657—8.35(155A) prior to commencing provision of services in this state.

~~16.4(1) Qualified Authorized nuclear pharmacist. A license to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist who shall be the pharmacist in charge of the pharmacy. The pharmacist in charge shall be an authorized nuclear pharmacist and shall be responsible for, at a minimum, the requirements in rule 657—6.2(155A) 657—8.3(155A). All personnel performing tasks in the preparation and distribution of radioactive drugs shall be under the direct personal supervision of a qualified an authorized nuclear pharmacist. A qualified An authorized nuclear pharmacist is responsible for all operations of the pharmacy and, except in emergency situations, shall be in personal attendance at all times that the pharmacy is open for business.~~

~~16.4(2) Space requirements. Nuclear pharmacies shall have adequate space, commensurate with the scope of services required and provided. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, drug compounding, dispensing, quality assurance, and office areas.~~

~~16.4(3) to 16.4(9) No change.~~

~~16.4(10) Radioactivity. The amount of radioactivity for each individual preparation a radiopharmaceutical prepared by a nuclear pharmacy shall be determined by radiometric methods immediately prior to dispensing.~~

~~16.4(11) Redistribution. A When a nuclear pharmacy may redistribute distributes to another nuclear pharmacy or authorized party entity radioactive drugs that are the subject of an approved new drug application if FDA-approved, commercially manufactured drug products, the pharmacy does shall not process the radioactive drugs in any manner or violate the product packaging.~~

ITEM 6. Amend rule 657—16.6(155A) as follows:

657—16.6(155A) Minimum equipment requirements. Each nuclear pharmacy shall maintain the following equipment for use in the provision of radiopharmaceutical services:

1. Laminar flow hood;
2. Dose calibrator;
3. Refrigerator;
4. Single-channel scintillation counter;
5. Microscope;
6. ~~Autoclave, or access to one;~~
7. 6. Incubator, or access to one;
8. ~~7.~~ Radiation survey meter;
9. 8. Other equipment necessary for the radiopharmaceutical services provided as required by the board.

PHARMACY BOARD[657](cont'd)

A pharmacy may request waiver or variance from a provision of this rule pursuant to the procedures and requirements of 657—Chapter 34.

ITEM 7. Adopt the following **new** rule 657—16.8(155A):

657—16.8(155A) Sterile radiopharmaceutical preparations and compounding. Sterile radiopharmaceutical preparations shall comply with federal laws and regulations for radiopharmaceuticals, including enforceable chapters of the United States Pharmacopeia (USP) and final guidance documents regarding sections of the Federal Food, Drug, and Cosmetic Act.

ARC 3223C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby gives Notice of Intended Action to amend Chapter 180, “Licensure of Optometrists,” and Chapter 182, “Practice of Optometrists,” Iowa Administrative Code.

These proposed amendments revise outdated language, outline the requirements for an incomplete application and include the requirement that the best-corrected visual acuity determined by refraction be included as a part of a contact lens or spectacle lens prescription.

Any interested person may make written comments on the proposed amendments no later than August 22, 2017, addressed to Judy Manning, Professional Licensure Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail judith.manning@idph.iowa.gov.

A public hearing will be held August 22, 2017, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

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

These amendments are intended to implement Iowa Code sections 147.3, 147.10, 147.55, 154.2, and 154.3.

The following amendments are proposed.

ITEM 1. Amend paragraph **180.2(1)“a”** as follows:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board’s Web site (~~<http://www.idph.state.ia.us/licensure>~~) (<https://www.idph.iowa.gov/licensure>) or directly from the board office, or the applicant may complete the application online at <https://ibplicense.iowa.gov>. All paper applications shall be sent to the Board of Optometry, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 2. Rescind paragraph **180.2(1)“g”** and adopt the following **new** paragraph in lieu thereof:

g. Submitting complete application materials. An application for an optometry license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

ITEM 3. Amend rule 645—182.3(154), introductory paragraph, as follows:

645—182.3(154) Furnishing prescriptions. Before a licensed optometrist provides a spectacle or contact lens prescription to a patient, the eye examination record shall include best-corrected visual acuity with ophthalmic lenses or contact lenses in the lens powers determined by refraction. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

ARC 3221C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to amend Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” and Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

The proposed amendments update the Board’s Web site address, add the Web site address to apply online, revise the requirements for an incomplete application, revise the requirements for foreign-trained applicants, change one of the requirements for endorsement applicants, remove the requirement for a notarized copy of a diploma for occupational therapy licensure, and remove the option to practice as an occupational therapy applicant prior to licensure.

Any interested person may make written comments on the proposed amendments no later than August 22, 2017, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail judith.manning@idph.iowa.gov.

A public hearing will be held on August 22, 2017, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

These amendments are intended to implement Iowa Code chapters 147, 148A, 148B, and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 200.2(1) as follows:

200.2(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board’s Web site (~~<http://www.idph.state.ia.us/licensure>~~) (<https://www.idph.iowa.gov/licensure>) or directly from the board office, or the applicant may complete the application online at <https://ibpllicense.iowa.gov>. All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Rescind subrule 200.2(8) and adopt the following **new** subrule in lieu thereof:

200.2(8) Submitting complete application materials. An application for a physical therapist or physical therapist assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

ITEM 3. Rescind subparagraphs **200.5(1)“a”(1)** and **(2)**.

ITEM 4. Amend paragraph **200.5(2)“a”** as follows:

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; Web site 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. ~~A credentialing agency should use the version for the CWT that coincides with the professional educational criteria that were in effect on the date the applicant graduated from the applicant’s respective physical therapy education program. This same process should be used for first-time licensees and for those seeking licensure through endorsement.~~ 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.

ITEM 5. Amend paragraph **200.7(2)“d”** as follows:

d. Have successfully passed the examination within a period of ~~one year~~ two years from the date of examination to the time application is completed for licensure.

ITEM 6. Amend rule 645—206.2(147) as follows:

645—206.2(147) Requirements for licensure. The following criteria shall apply to licensure:

206.2(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board’s Web site (~~<http://www.idph.state.ia.us/licensure>~~) (<https://www.idph.iowa.gov/licensure>) or directly from the board office, or the applicant may complete the application online at <https://ibpllicense.iowa.gov>. All paper applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

206.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

206.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

206.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board.

~~**206.2(5)** The applicant shall provide a notarized copy of the certificate or diploma indicating the degree awarded to the applicant, if the degree is not indicated on the official transcript.~~

~~**206.2(6)**~~ **206.2(5)** The licensure examination score shall be sent directly from the examination service to the board to confirm a passing score on the examination.

~~**206.2(7)**~~ **206.2(6)** Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

206.2(7) Submitting complete application materials. An application for an occupational therapist or occupational therapy assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

~~**206.2(8)** Incomplete applications that have been on file in the board office for more than two years shall be:~~

- ~~a. Considered invalid and shall be destroyed; or~~
- ~~b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.~~

ITEM 7. Rescind and reserve rule **645—206.4(147)**.

ITEM 8. Amend rule 645—206.5(147) as follows:

645—206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure.

~~**206.5(1)** Occupational therapist limited permit holders and endorsement applicants working prior to licensure may:~~

- ~~a. and b. No change.~~

~~**206.5(2)** Occupational therapy assistants; and limited permit holders and endorsement applicants working prior to licensure shall:~~

- ~~a. and b. No change.~~

ITEM 9. Amend rule 645—206.9(147) as follows:

645—206.9(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction 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, another state, territory, province or foreign country who:

1. to 6. No change.
7. Shows evidence of one of the following:
 - Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
 - The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
 - Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
 - Successfully passing the examination within a period of ~~one year~~ two years from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

ARC 3219C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation hereby gives Notice of Intended Action to rescind Chapter 125, “General Requirements and Covenants for Highway and Bridge Construction,” Iowa Administrative Code.

Chapter 125 includes information on the Department’s “Standard Specifications for Highway and Bridge Construction” and supplemental specifications. The Department is proposing to rescind Chapter 125 since this chapter is no longer needed. These publications are available in electronic format on the Department’s Web site at www.iowadot.gov. Contact and other information concerning specifications is also available on the Department’s Web site.

These rules do not provide for 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.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@iowadot.us.
5. Be received by the Department’s rules administrator no later than August 22, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, August 24, 2017, at 10 a.m. in the Administration Building, First Floor, South Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

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

This amendment is intended to implement Iowa Code section 307.24.

The following amendment is proposed.

Rescind and reserve 761—Chapter 125.

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, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%
October 1, 2016 — October 31, 2016	3.50%
November 1, 2016 — November 30, 2016	3.75%
December 1, 2016 — December 31, 2016	3.75%
January 1, 2017 — January 31, 2017	4.25%

USURY(cont'd)

February 1, 2017 — February 28, 2017	4.50%
March 1, 2017 — March 31, 2017	4.50%
April 1, 2017 — April 30, 2017	4.50%
May 1, 2017 — May 31, 2017	4.50%
June 1, 2017 — June 30, 2017	4.25%
July 1, 2017 — July 31, 2017	4.25%
August 1, 2017 — August 31, 2017	4.25%

ARC 3226C**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 23, “Employer’s Contribution and Charges,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before August 22, 2017, by sending them to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend subrule 23.2(2), introductory paragraph, as follows:

23.2(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The ~~Employer’s Contribution and Payroll Report, Form 65-5300,~~ employer’s contribution and payroll shall be used as prima facie evidence of when the wages were paid. If the wages are not listed ~~on the 65-5300,~~ they shall be considered as paid:

ITEM 2. Amend rule ~~871—23.8(96)~~, catchwords, as follows:

871—23.8(96) Due date of quarterly reports and contributions contribution and payroll.

ITEM 3. Amend paragraph **23.8(1)“b”** as follows:

b. If any due date prescribed in this rule falls on a Saturday or Sunday, or a legal holiday, the due date shall be the next following business day. Quarterly ~~reports~~ wage detail, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the department.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 4. Amend subrule 23.8(2) as follows:

23.8(2) Regular due date. Each covered employer subject to Iowa Code section 96.7 shall file with the department quarterly ~~reports~~ contribution and payroll on or before the due date, and any employer failing to file a quarterly ~~report~~ when due shall be delinquent.

ITEM 5. Amend paragraph **23.8(6)“a”** as follows:

a. A quarterly ~~report~~ wage detail or contribution payment or payment in lieu of contributions which is not received on or before the due date is delinquent. An employer who fails to file quarterly contribution and payroll on or before the due date ~~a contribution and wage report~~ shall pay to the department for each such delinquent ~~report~~ quarter, subject to waiver for good cause shown, a penalty as provided in Iowa Code section 96.14(2). No penalty shall apply to delinquent ~~reports~~ quarters when the employer proves to the satisfaction of the department that no wages were paid.

ITEM 6. Amend subrule 23.8(8) as follows:

23.8(8) Extension of time. Upon written request filed with the department before the due date of any contribution ~~report~~ and payroll, the department may, for good cause shown, grant an extension in writing of the time for filing ~~of the report~~ and the payment of the contributions, but no extension shall exceed 30 days and no extension shall postpone payment beyond the last day for filing tax returns under the Federal Unemployment Tax Act. If an employer who has been granted an extension fails to pay the contribution on or before the termination of the period of such extension, interest shall be payable from the original due date as if no extension had been granted.

ITEM 7. Amend rule 871—23.9(96) as follows:

871—23.9(96) Delinquency notice. Within 20 days from the delinquent date for filing ~~Form 65-5300, Employer's Quarterly Contribution & Payroll Report~~ employer's quarterly contribution and payroll, a ~~Delinquency Notice, Form 65-5313,~~ delinquency notice will be sent to all employers from whom no ~~report~~ information has been received. Such notice shall state the employer's name, account number, experience rate, and the quarter for which ~~the report needs~~ contribution and payroll need to be made. The notice will be sent or e-mailed to the employer's last-known address, e-mail address, or place of business. If the employer has sold or dissolved the business, the employer shall ~~fill out the information section on Form 65-5313, showing~~ show the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer shall ~~show~~ provide the name and address of the successor and the employer's future mailing address. ~~Such notice shall then be returned to the department for a change of status determination.~~

ITEM 8. Rescind subrule 23.10(2) and adopt the following **new** subrule in lieu thereof:

23.10(2) At the end of each calendar quarter, the department shall bill each reimbursable employer. This statement shall be sent to the employer within 30 days of the quarter for which the benefits are charged and shall set out the social security number, name and amount of benefits charged to the employer for each such claimant together with the amount of any previous charges remaining unpaid and interest to the end of the quarter for which the statement is rendered. Payment of each quarter's charges shall be due within 30 days of the date the statement is sent. If the employer fails to reimburse the department within the period prescribed by these rules, the department may attempt collection of the amount due including any of the following methods:

- a. Issuance of Notice of Jeopardy Assessment and Demand for Payment.
- b. Issuance of Notice of Lien.
- c. Any other actions as prescribed by the law or these rules including collection by distress warrant. Interest on delinquent reimbursable benefits shall be charged at the rate of 1 percent per month or one-thirtieth of 1 percent per day from the date payment was due until the date of payment.

ITEM 9. Amend paragraph **23.13(3)“a,”** introductory paragraph, as follows:

a. Any employing unit may file an election, ~~on Form 68-0599,~~ to cover under the law of a single participating jurisdiction all of the services performed for the employing unit by any individual who

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

customarily works for the employing unit in more than one participating jurisdiction. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which:

ITEM 10. Amend paragraph **23.13(5)“a”** as follows:

a. The electing unit shall promptly notify each individual affected by its approved election on ~~Form 68-0601 supplied by the elected jurisdiction~~, and shall furnish the elected agency a copy of such notice.

ARC 3227C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 26, “Contested Case Proceedings,” Iowa Administrative Code.

These proposed amendments clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development in the unemployment appeal process. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before August 22, 2017, by sending them to Emily Chafa, Iowa Workforce Development, Appeals Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to emily.chafa@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend subrule 26.4(1) as follows:

26.4(1) An unemployment benefits contested case is commenced with the filing, by mail, facsimile, or e-mail, online, or in person, of a written appeal by a party with the appeals bureau of the department. The appeal shall be addressed or delivered to: Appeals Bureau, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the Iowa workforce development Web site.

ITEM 2. Amend subrule 26.4(2), introductory paragraph, as follows:

26.4(2) An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at its last-known address and shall state the following:

ITEM 3. Amend subrule 26.4(5) as follows:

26.4(5) Appeals transmitted by facsimile, by e-mail, or online which are received by the appeals bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 4. Rescind rule 871—26.5(17A,96) and adopt the following new rule in lieu thereof:

871—26.5(17A,96) Commencement of employer liability contested case.

26.5(1) An employer liability contested case is commenced with the filing of a written appeal with the tax bureau of the department by mail, facsimile, or e-mail, online, or in person. The appeal shall be addressed or delivered to: Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.5(2) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than 30 calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at the party's last-known address and shall set forth the following:

- a. The name, address, and Iowa employer account number of the employer;
- b. The name and title of the person filing the appeal;
- c. A reference to the decision from which the appeal is taken; and
- d. The grounds upon which the appeal is based.

26.5(3) Appeals transmitted by facsimile, by e-mail, or online which are received by the tax bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 5. Amend paragraph **26.6(1)“a”** as follows:

a. The date, time and place of an in-person hearing, or the date and time of a telephone hearing, including instructions for ~~calling~~ contacting the appeals bureau in advance of the hearing to provide the names and telephone numbers of all participants and witnesses; and

ITEM 6. Amend paragraph **26.14(1)“b”** as follows:

b. ~~All contested~~ Contested case hearings in which the department of workforce development is a party ~~shall~~ may be heard and decided by a ~~presiding officer who is~~ an administrative law judge employed by the division of administrative hearings of the department of inspections and appeals.

ITEM 7. Amend paragraph **26.14(1)“c”** as follows:

c. The department of workforce development is a party to ~~all~~ contested case hearings in which it is the employer. ~~‡ The department of workforce development is a party to those contested case hearings involving issues of employer liability, and employee/independent contractor status, fraudulent overpayment and administrative penalty in which it or any of its employees request the right to participate in the hearing by offering testimony and cross-examining witnesses for other parties that arise from decisions issued by the tax bureau.~~

ARC 3229C

REGENTS BOARD[681]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 3, "Personnel Administration," Iowa Administrative Code.

The amendments in Item 1 revise subrules 3.39(3) and 3.39(12) regarding promotional and lead worker pay. The amendments in Item 2 revise rule 681—3.129(8A) regarding the grievance procedure.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin as **ARC 3071C** on May 24, 2017. The Board of Regents received one public comment. These amendments are identical to those published under the Notice of Intended Action.

The Board of Regents adopted these amendments on June 28, 2017.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Board finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective on July 1, 2017, because these amendments ensure that certain rights and benefits previously included in a collective bargaining agreement will be covered by the Board of Regents Merit System rules.

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

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at rule 681—19.18(17A).

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

These amendments are intended to implement Iowa Code section 262.9(3).

These amendments became effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Amend subrules 3.39(3) and 3.39(12) as follows:

3.39(3) Pay on promotion. An employee who is promoted will be moved to the minimum rate of the new grade, or to a higher rate on the new grade which provides an adjustment, to the employee's present base pay, that is the salary equivalent of no less than one step higher than the employee's present base pay but, at the discretion of the institution, no greater than 5 percent without approval of the merit system director. In no event will the adjustment result in pay above the maximum of the new grade.

If the promotion involves movement to a new grade that is three or more grades higher than the employee's present grade, the resident director may approve, on written request from the employing department, an increase, to the employee's present base pay, that is equivalent to the value of no less than two steps higher than the employee's present base pay but, at the discretion of the institution, no greater than 10 percent without the approval of the merit system director.

For the purpose of calculating the promotional increase, any extra pay such as shift differential pay, pay for special assignment, on-call pay, pay for overtime, or pay for call back shall be excluded as part of the employee's present base pay. The merit review date will be computed from the effective date of promotion and in accordance with 3.39(2). Pay on promotion in accordance with the provisions of ~~subrule 3.39(1), paragraph "b,"~~ 3.39(1)"b" may be authorized by a resident director and will be reported to the merit system director.

3.39(12) Pay for lead worker status. On request of an employing department and with approval of the resident director, an employee who is assigned and performs limited supervisory duties (such as distributing work assignments, maintaining a balanced workload within a group, and keeping attendance and work records) in addition to regular duties, may be designated as lead worker in the classification assigned, and paid during the period of such designation the employee's base salary plus the equivalent of no less than one step but, at the discretion of the institution, no greater than 5 percent without the approval of the merit system director.

ITEM 2. Amend rule 681—3.129(8A) as follows:

681—3.129(8A) Grievances. Disputes or complaints by permanent employees regarding the interpretation or application of institutional rules governing terms of employment or working conditions

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(other than general wage levels) or the provisions of these merit system rules (other than disputes whose resolution is provided for in 681—3.127(8A) and 681—3.128(8A)) will be resolved in accordance with the following procedure, except at institutions where a varied procedure has been approved by the merit system director in accordance with 3.129(1). Employees in an initial probationary period will be allowed access to the grievance procedure with the right to appeal in writing at steps within the institution. The institutional representative may permit an oral presentation at any step if the institutional representative deems one necessary. At each step of the grievance procedure, the employee may be represented by one or two persons coworkers of the employee's choosing. The name of such representatives will be noted on the written grievance and on each subsequent appeal. Presentations, reviews, investigations, and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings will not suffer loss of pay as a result thereof.

If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by these rules, the decision will become final. If an institutional representative does not reply to an employee's grievance or appeal within the prescribed time, the employee may proceed to the next step. With the consent of both parties, any of the time limits prescribed in these rules may be extended.

Step 1. ~~Dissatisfied employees~~ A dissatisfied employee will first discuss their the employee's problem with their the employee's immediate supervisor. It is presumed that the majority of disputes, complaints, or misunderstandings will be resolved at this point. If the employee is still dissatisfied after such discussion, the employee may within ten days after the occurrence of the matter leading to the grievance or within ten days after such time that the employee has, or could reasonably be expected to have, knowledge of such occurrence, file a written grievance with the employee's immediate supervisor department head or designee. A written grievance will contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It will specify the institutional or merit system rule which has allegedly been violated and will state the corrective action desired by the employee. The supervisor will review the grievance with the employee and will transmit the supervisor's decision to the employee in writing within five days after receiving the grievance. The grievance will be signed and dated by the employee. The department head or designee will investigate the grievance and will give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The department head or designee will notify the employee of the decision in writing within ten days after receiving the grievance.

Step 2. ~~If the employee is not satisfied with the decision of the supervisor, the employee may within five days after receiving that decision appeal it to the department head. Such an appeal will be in writing and will contain all of the information included in the initial grievance, the decision of the supervisor, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee. The department head will investigate the grievance and will give the employee or a representative of the employee's choosing the right to present the employee's case orally. The department head may affirm, reverse, or modify the supervisor's decision and will notify the employee of the decision in writing within ten days after receiving the appeal.~~

Step 3. ~~2.~~ If the employee is not satisfied with the decision of the department head or designee, the employee may within five days after receiving that decision, appeal it to the dean of the college or the head of the major operating division or designee(s) in which the employee is employed. The dean or the division head and the resident director or designee(s) will jointly represent the institution at this step of the appeal procedure. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all the decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The dean of the college or head of the division and the resident director or designee(s) will investigate the grievance and will give the employee or a representative coworker of the employee's choosing the right to present the employee's case orally. The institutional representatives may affirm, reverse, or modify the decision of the department head, and will notify the employee of their decision in writing within ten days after receiving the appeal.

Step 4. ~~3.~~ If the employee is not satisfied with the decision rendered at Step 3 2 of the grievance procedure, the employee may within five days after receiving that decision appeal it to the chief

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administrator of the institution. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The chief administrator or the chief administrator's designee will investigate the grievance and will give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The chief administrator may affirm, reverse, or modify the decision rendered at Step 3 2 and will notify the employee of the administrator's decision in writing within ten days after receiving the appeal.

Step 5 4. Employees not satisfied with the decision rendered under Step 4 3 may within five days after receiving that decision request a hearing before an arbitrator. Such a request will be in writing, will include all of the information included in the initial grievance and subsequent appeals, all of the decisions related thereto, and any other pertinent information the employee may wish to submit.

The appeal will be signed and dated by the employee and will be directed to the merit system director who will arrange for a hearing before an arbitrator as prescribed under 3.129(2). The arbitrator will be expected to render a decision within 30 calendar days following the conclusion of the hearing.

The merit system director shall have the right to rule whether a case is grievable and arbitrable under the merit system. The merit system director shall have the right to refuse to refer to arbitration any grievance not found to be in full compliance with these rules involving the grievance procedure. The board of regents shall retain jurisdiction to review decisions of the merit director as to whether a matter is grievable or arbitrable upon appeal by an employee.

3.129(1) *Institutional grievance procedure.* An institution may develop a grievance procedure for all or a segment of its employees that varies from the procedure prescribed in 681—3.129(8A), provided that such a procedure begins with discussion between the employee and the employee's immediate supervisor and provides for a final hearing in accordance with Step 5 4 of the grievance procedure prescribed herein. Such an institutional procedure will incorporate all the rights provided employees in this chapter, will be made known to the employees to whom it applies, and must be approved by the merit system director. In the absence of an approved institutional procedure, 681—3.129(8A) will apply.

3.129(2) *Appeals.* The board of regents will approve the use of a single arbitrator in hearing an appeal. The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service or the Iowa public employment relations board with a preference for those Iowans so certified.

The arbitrator will hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

The arbitrator will establish procedures for the conduct of the hearing in a fair and informal manner that will afford each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other. The arbitrator will be expected to render a decision to the involved parties and to the board of regents within the prescribed time.

[Filed Emergency After Notice 6/30/17, effective 7/1/17]

[Published 8/2/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3230C

ACCOUNTANCY EXAMINING BOARD[193A]

Adopted and Filed

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board (Board) hereby amends Chapter 3, “Certification of CPAs”; rescinds Chapter 13, “Rules of Professional Ethics and Conduct,” and adopts a new Chapter 13 with the same title; and amends Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code.

These amendments fully adopt the Code of Professional Conduct of the American Institute of Certified Public Accountants (AICPA), effective December 15, 2014, as updated for all official releases through October 31, 2016, by reference and eliminate redundant, inconsistent, or incompatible rules in light of said adoption. However, several supplemental rules are retained, such as rules governing the manner in which licensees are to interact with the Board, rules describing information licensees are required to disclose to the Board, and rules relating to continuing education. The amendments reflect partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 12, 2017, as **ARC 3019C**. A public hearing was held at 8:30 a.m. on Tuesday, May 2, 2017, at the offices of the Professional Licensing and Regulation Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. No comments were received. These amendments are identical to those published under Notice of Intended Action.

There is no fiscal impact. No current fees are being changed, and no new fees are being imposed.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments were adopted at the June 21, 2017, regular meeting of the Board.

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

These amendments are intended to implement Iowa Code section 542.4.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 193A—3.15(542) as follows:

193A—3.15(542) Use of title.

3.15(1) No change.

3.15(2) Rules regarding the use of the title “CPA” in a firm name are found at ~~193A—subrule 13.4(14)~~ in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 2. Rescind 193A—Chapter 13 and adopt the following new chapter in lieu thereof:

CHAPTER 13
RULES OF PROFESSIONAL ETHICS AND CONDUCT

193A—13.1(542) Applicability.

13.1(1) The rules of professional ethics and conduct, both adopted by reference in subrule 13.1(2) and specifically enumerated herein (collectively referred to herein as the “rules of professional ethics and conduct”), rest upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a legally restricted title relating to the practice of public accountancy imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the rules of professional ethics and conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action and a continued commitment to learning and professional improvement, to observe applicable generally accepted accounting principles

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and generally accepted auditing standards, to promote the public interest through sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all professional activities in whatever capacity performed.

13.1(2) In addition to the rules specifically enumerated herein, and only to the extent applicable to certificate holders' and licensees' respective scope of practice, all certificate holders and licensees shall comply with the Code of Professional Conduct of the AICPA (AICPA Code of Professional Conduct), effective December 15, 2014, as updated for all official releases through October 31, 2016, and adopted by reference herein. In the event of a conflict or inconsistency between the AICPA Code of Professional Conduct and rules specifically enumerated herein, the rules specifically enumerated herein shall prevail.

13.1(3) The rules of professional ethics and conduct apply to all professional services performed by all CPAs and LPAs whether or not they are engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is specifically limited to the practice of public accountancy.

13.1(4) A CPA or LPA who is engaged in the practice of public accountancy outside the United States will not be subject to discipline by the board for departing, with respect to such foreign practice, from any of the board's rules of professional ethics and conduct, so long as the CPA's or LPA's conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which the CPA or LPA is practicing. However, even in such a case, if a CPA's or LPA's name is associated with financial statements in such manner as to imply that the CPA or LPA is acting as an independent public accountant and under circumstances that would entitle the reader of the financial statement to assume that United States practices are followed, the CPA or LPA will be expected to comply with applicable generally accepted engagement standards and applicable generally accepted accounting principles.

13.1(5) A CPA or LPA may be held responsible for compliance with the rules of professional ethics and conduct by all persons associated with the accountant in the practice of public accounting who are either under the accountant's supervision or are licensees, partners or shareholders in the accountant's practice.

13.1(6) CPAs and CPA firms exercising a practice privilege in Iowa or for a client with a home office in Iowa are subject to the professional standards set forth in this chapter.

13.1(7) These rules complement the grounds for discipline set out in 193A—Chapter 14.

193A—13.2(542) Rules applicable to all CPAs and LPAs.

13.2(1) *Cooperation with board inquiry.* A CPA or LPA shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by certified mail.

13.2(2) *Reporting convictions, judgments, and disciplinary actions.* In addition to any other reporting requirement in Iowa Code chapter 542 or these rules, a CPA or LPA shall notify the board within 30 days of:

a. Imposition upon the CPA or LPA of discipline including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, or suspension, revocation or modification of a license, certificate, permit or practice rights by:

(1) The SEC, PCAOB, or IRS (by the Director of Practice); or

(2) Another state board of accountancy for cause other than failure to pay a professional fee by the due date or failure to meet the continuing education requirements of another state board of accountancy; or

(3) Any other federal or state agency regarding the CPA's or LPA's conduct while rendering professional services; or

(4) Any foreign authority or credentialing body that regulates the practice of accountancy;

b. Occurrence of any matter that must be reported by the CPA or LPA to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) and PCAOB rules and forms adopted pursuant thereto;

c. Any judgment, award or settlement of a civil action or arbitration proceeding in which the CPA or LPA was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

firms shall notify the board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in this state; or

d. Criminal charges, deferred prosecution or conviction or plea of no contest to which the CPA or LPA is a defendant if the crime is:

(1) Any felony under the laws of the United States or any state of the United States or any foreign jurisdiction; or

(2) Any crime, including a misdemeanor, if an essential element of the offense is dishonesty, deceit or fraud, as more fully described in Iowa Code section 542.5(2).

13.2(3) *Firm's duty to report.* The CPA or LPA designated by each firm as responsible for the proper licensure of the firm or registration of an office of the firm shall report any matter reportable under this rule to which a nonlicensee owner with a principal place of business in this state is a party.

13.2(4) *Solicitation or disclosure of CPA examination questions and answers.* A CPA or LPA who solicits or knowingly discloses a Uniform CPA Examination question(s) or answer(s) without the written authorization of the AICPA shall be considered to have committed an act discreditable to the profession.

13.2(5) *Falsely reporting continuing professional education (CPE).* A CPA or LPA shall be considered to have committed an act discreditable to the profession when the CPA or LPA falsely reports CPE credits during the CPA's or LPA's required reporting renewal or board CPE audit.

13.2(6) *Mandatory ethics continuing professional education.* Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing professional education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. This requirement is more fully described in 193A—subrule 10.7(2).

193A—13.3(542) Rules applicable to CPAs and LPAs who use the titles in offering or rendering products or services to clients.

13.3(1) *Use of title.*

a. Certified public accountant. Only a person who holds an active, unexpired certificate and who complies with the requirements of 193A—Chapter 5, Licensure Status and Renewal of Certificates and Licenses, and 193A—Chapter 10, Continuing Education, or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title “certified public accountant” or the abbreviation “CPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device tending to indicate that such person is a certified public accountant.

b. Licensed public accountant. Only a person holding a license as a licensed public accountant shall use or assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device tending to indicate that such person is a licensed public accountant.

13.3(2) *Forms of practice.*

a. Certified public accountant firms. A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization shall apply for a permit to practice under Iowa Code section 542.7 and these rules as a firm of certified public accountants in order to use the title “CPAs” or “CPA firm,” as more fully described in 193A—Chapter 7.

b. Licensed public accounting firms. A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization shall apply for a permit to practice under Iowa Code section 542.8 and these rules as a firm of licensed public accountants in order to use the title “LPAs” or “LPA firm,” as more fully described in 193A—Chapter 8.

13.3(3) *Acting through others.* A CPA or LPA shall not permit others to carry out on the CPA's or LPA's behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional ethics and conduct.

193A—13.4(542) Audit, review and other attest services.

13.4(1) *Definitions.*

“Attest” or “attest service” means providing any of the following services:

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1. An audit or other engagement to be performed in accordance with the statements on auditing standards.
2. A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.
3. Any engagement to be performed in accordance with the statements on standards for attestation engagements.
4. Any engagement to be performed in accordance with the auditing standards of the PCAOB.

The standards specified in the definition of “attest” are those standards adopted by the board, by rule, by reference to the standards developed for general application by the AICPA, the PCAOB, or other recognized national accountancy organization.

“*Attest engagement team*” means the team of individuals participating in attest service, including those who perform concurring or second partner reviews. The “attest engagement team” includes all employees and contractors retained by the firm who participate in attest service, irrespective of their functional classification.

“*Audit*” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

“*Review*” means to perform inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

13.4(2) *Practice privilege.* All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa must be performed through a CPA firm that holds an active Iowa firm permit to practice; provided that, an out-of-state CPA firm exercising a practice privilege may perform review services in Iowa or for a client with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the firm complies with Iowa Code sections 542.20(5) and 542.20(6) and associated rules. Unless Iowa certification is specifically required by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. LPAs and LPA firms are not authorized to perform attest services.

13.4(3) *Peer review required.* As a condition of renewal of a permit to practice as a CPA firm, the firm shall undergo, at least once every three years, a peer review conducted under the provisions outlined in 193A—Chapter 11 and Iowa Code section 542.7.

193A—13.5(542) Compilation.

13.5(1) *Who can perform.* Only a CPA licensed under Iowa Code section 542.6 or 542.19, an LPA licensed under Iowa Code section 542.8, or a CPA exercising a practice privilege under Iowa Code section 542.20 shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (Refer to rule 193A—6.4(542).)

13.5(2) *Peer review.* All individuals described in 193A—subrule 6.4(1) shall satisfy peer review requirements, individually or through a peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

13.5(3) *Mandatory financial statement presentation continuing professional education.* In each renewal period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant’s compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing education devoted to financial statement presentation every three years, such as courses covering the Statements

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

on Standards for Accounting and Review Services (SSARS) and accounting and auditing updates. This requirement is more fully described in 193A—subrule 10.7(1).

193A—13.6(542) Rules applicable to tax practice. CPAs, LPAs, and persons who are not CPAs or LPAs may perform tax services in Iowa. The rules of professional ethics and conduct in this chapter shall apply to any CPA or LPA who is licensed in Iowa and to any CPA exercising a practice privilege in Iowa whenever such person informs the client or prospective client that the person is a CPA or LPA. Clients may be so informed in a number of ways, including oral or written representations, the display of a CPA certificate or LPA license, or use of the CPA or LPA title in advertising, telephone or Internet directories, letterhead, business cards or e-mail. Clients and prospective clients who select a tax professional holding oneself out as a CPA or LPA have the right to expect compliance with these rules.

These rules are intended to implement Iowa Code chapters 272C and 542.

ITEM 3. Amend paragraph **14.3(2)“e”** as follows:

e. A willful, repeated, or material deviation from generally accepted engagement standards, generally accepted accounting standards, generally accepted auditing standards, or any other nationally recognized standard applicable to the public accounting services at issue, ~~as provided in rule 193A—13.4(542).~~

ITEM 4. Amend paragraph **14.3(4)“b”** as follows:

b. A violation of a rule of professional conduct relating to improper conflicts of interest, or lack of integrity, objectivity or independence, as provided in ~~rule 193A—13.3(542)~~ the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 5. Amend paragraph **14.3(7)“a”** as follows:

a. Violation of a generally accepted engagement standard, generally accepted accounting standard, generally accepted auditing standard, or any other nationally recognized standard applicable to the public accounting services at issue, as provided in rule 193A—13.4(542), or any other violation of a provision of ~~193A—Chapter 13~~ the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

ITEM 6. Amend paragraph **14.3(9)“g”** as follows:

g. Failure to report as provided in ~~193A—subrules 13.6(7) and 13.6(8)~~ 193A—subrule 13.4(3) or as otherwise required in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

[Filed 7/10/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3231C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 63, “Leave,” Iowa Administrative Code.

The amendment is intended to create more equality among employees whose shifts are greater than 16 hours with employees whose shifts are 16 hours or less. The amendment accomplishes this by limiting military leave for employees whose shifts are more than 16 hours to 30 calendar days in accordance with Iowa Code section 29A.28(1)“a” for military duty of 30 days or more, while providing 30 work days of leave for employees whose shifts are 16 hours or less.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3111C** on June 7, 2017. This amendment was also Adopted and Filed Emergency and published as **ARC 3115C** on June 7, 2017, and became effective on May 17, 2017.

A public hearing was held on June 29, 2017, from 10 a.m. to 12 noon at the Joint Forces Headquarters Building, 6100 NW 78th Avenue, Johnston, Iowa. No public comments were received. This amendment is identical to that published under Notice of Intended Action and Adopted and Filed Emergency.

The Department of Administrative Services will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

The Department of Administrative Services adopted this amendment on July 12, 2017.

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

This amendment is intended to implement Iowa Code sections 8A.413 and 29A.28.

This amendment will become effective September 6, 2017, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend rule 11—63.9(8A) as follows:

11—63.9(8A) Military leave. For purposes of subrules 63.9(1) and 63.9(3) and as applied to nontemporary employees whose regularly scheduled work shift is 16 hours or less, "30 days" means 30 work days. For nontemporary employees whose regularly scheduled work shift is more than 16 hours, "30 days" in subrules 63.9(1) and 63.9(3) shall be defined in accordance with the provisions of Iowa Code section 29A.28.

63.9(1) A nontemporary employee who is a member of the uniformed services, when ordered by proper authority to serve in the uniformed services, shall be granted leave without loss of pay for 30 days each calendar year. Absences required for military service shall be in accordance with the rules on vacation, compensatory leave, or leave without pay, 38 U.S.C. Sections 4301-4333, and 20 CFR Part 1002. Military leave may be utilized for up to 30 days in each calendar year. Any amount of military leave taken during any part of an employee's scheduled workday, regardless of the number of hours actually taken, shall count as one day toward the 30 paid day maximum. If the employee's work shift crosses two calendar days, only one day shall count toward the 30 paid day maximum. Work schedule changes shall not be made for the purpose of avoiding payment for military leave.

63.9(2) A nontemporary employee who is ordered by proper authority to military duty as defined in Iowa Code section 29A.28 may elect to be placed on leave without pay or be separated and removed from the payroll.

63.9(3) Nontemporary employees who elect to separate from employment when ordered by proper authority to military duty shall be given 30 days of regular pay in a lump sum with their last paycheck. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

Employees who elect to be placed on leave without pay when ordered by proper authority to military duty shall continue to receive regular pay and benefits for 30 days. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

63.9(4) At the conclusion of military service, the employee must notify the employee's appointing authority of the intent to exercise return rights pursuant to 38 U.S.C. Sections 4301-4344.

63.9(5) An employee taking military leave may use any vacation or compensatory leave that was accrued prior to service. Employees who elect to use vacation or compensatory leave shall continue to receive benefits in accordance with the state of Iowa's benefits program policies and procedures. Upon return to employment, the employee's accrual rate for vacation shall be at the same rate as if the employee had not taken military leave.

63.9(6) An employee may maintain health and dental insurance coverage while on military leave for up to 24 months. The employee is responsible for paying the employee's share of the health and dental insurance premiums if the period of military service is less than 31 days. If more than 30 days, the employee shall be required to pay 102 percent of the full premium under the plan to maintain coverage. Upon return to employment, the employee may elect to have health and dental insurance coverage

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

become effective either on the first day of the month the employee returns to employment or the first day of the month following the month in which the employee returned to employment. Coverage under the plans will not have an exclusion or waiting period upon return to employment. An exclusion or waiting period may be imposed, however, in connection with any illness or injury determined by the Secretary of the U.S. Department of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

63.9(7) A person reemployed under this rule shall be treated as not having incurred a break in service with the employer by reason of such person's period of service in the uniformed services.

[Filed 7/14/17, effective 9/6/17]

[Published 8/2/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3232C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 163.1, 169A.13A(4), 192.111, 196.2, and 206.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 36, "Egg Handlers," Chapter 45, "Pesticides," Chapter 63, "Branding," and Chapter 68, "Dairy," Iowa Administrative Code.

These amendments reflect changes in the period of licensure from one year to two years for egg handlers, milk haulers, milk graders, bulk milk tankers and can milk truck bodies. The rule regarding an interim milk hauler license is rescinded. Subrule 63.1(2) now provides that similar livestock brands can be located on the animal in a different location only if recorded prior to 1996. Also, licensure costs for pesticide dealers with less than \$100,000 in gross retail pesticide sales are updated.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3091C** on June 7, 2017. No comments were received from the public. The adopted amendments are identical to the noticed amendments.

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

These amendments are intended to implement 2017 Iowa Acts, House File 617, and Iowa Code sections 159.2, 192.111 and 206.8.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend subrules 36.2(2) and 36.2(7) as follows:

36.2(2) A license is valid for ~~one year~~ two years, is renewable, and expires on October 1.

36.2(7) License fees for egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code section 196.3) and are charged as follows:

- a. For less than 125 cases—~~\$20.20~~ \$40.40;
- b. For 125 to 249 cases—~~\$47.25~~ \$94.50;
- c. For 250 to 999 cases—~~\$67.50~~ \$135.00;
- d. For 1,000 to 4,999 cases—~~\$135.00~~ \$270.00;
- e. For 5,000 to 9,999 cases—~~\$236.25~~ \$472.50;
- f. For 10,000 or more cases—~~\$337.50~~ \$675.00.

For the purpose of determining fees, each case shall be 30 dozen eggs.

ITEM 2. Amend rule 21—45.48(206) as follows:

21—45.48(206) Dealer license fees. A dealer license fee ~~for initial application~~ for a dealer license with less than \$100,000 in gross retail pesticide sales shall be \$10 if the annual gross retail sales are less than \$10,000; \$25 if the annual gross retail sales are \$10,000 or more but less than \$25,000; \$50 if the annual gross retail sales are \$25,000 or more but less than \$50,000; \$75 if the annual gross retail sales are

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

~~\$50,000 or more but less than \$75,000; and \$100 if the annual gross retail sales are \$75,000 or more but less than \$100,000. The annual dealer license renewal fee for a dealer with \$100,000 or more in gross retail pesticide sales shall be based on one-tenth of one percent of the gross annual sales of all pesticides sold the previous fiscal year or \$25, whichever is greater. The fiscal year shall begin July 1 and end June 30 of the following year.~~

~~45.48(1) A pesticide dealer license expires on June 30 of each year. However, a three-month grace period beginning July 1 and extending to October 1 of each year shall be allowed for renewal of pesticide dealer licenses. A late fee of 2 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during October; a late fee of 4 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during November; \$25 is imposed on a dealer with less than \$100,000 in gross retail pesticide sales, and a late fee of 5 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during December; and an additional 5 percent penalty for each month thereafter shall be imposed with \$100,000 or more in gross retail pesticide sales. The application for renewal shall be considered complete once the required fees and reports have been submitted to the department.~~

~~45.48(2) No change.~~

~~This rule is intended to implement Iowa Code sections 206.6, 206.8 and 206.12.~~

~~ITEM 3. Amend subrule 63.1(2) as follows:~~

~~63.1(2) Each For brands recorded prior to 1996, each location is considered a separate brand and not in or under conflict with the same or similar brand in a different location or on a different side.~~

~~ITEM 4. Amend subrules 68.41(3), 68.41(5) and 68.41(6) as follows:~~

~~68.41(3) A license pursuant to this rule expires June 30 annually biennially and is not transferable between tankers.~~

~~68.41(5) The cost of the bulk milk tanker license is \$25 per year \$50.~~

~~68.41(6) If the bulk milk tanker and accessories have been inspected within the last 12 months and carry a current license, the bulk milk tanker renewal license application and a return envelope will be mailed to the owner of the tanker in April annually biennially by the dairy products control bureau office in Des Moines.~~

~~ITEM 5. Amend subrules 68.48(2), 68.48(3) and 68.48(5) as follows:~~

~~68.48(2) The cost of a milk hauler license is \$10 \$20.~~

~~68.48(3) A milk hauler license obtained pursuant to this rule expires June 30 annually biennially and is not transferable between persons.~~

~~68.48(5) If a milk hauler with a current license has had an on-the-farm evaluation within the last two years and has attended a state milk hauler training school within the last three years, a milk hauler renewal application and a return envelope will be mailed to the milk hauler in April annually biennially by the dairy products control bureau office in Des Moines.~~

~~ITEM 6. Rescind and reserve rule 21—68.49(192).~~

~~ITEM 7. Amend subrules 68.69(3) to 68.69(5) as follows:~~

~~68.69(3) The cost of a milk grader license is \$10 \$20.~~

~~68.69(4) A milk grader license obtained pursuant to this rule expires June 30 annually biennially and is not transferable between persons.~~

~~68.69(5) As a condition of relicensing:~~

~~a. and b. No change.~~

~~c. If the milk grader has had an evaluation within the last two years and, if required, has attended a milk hauler training school within the last three years, a milk grader renewal application and a return envelope will be mailed annually biennially in April to the milk grader by the dairy products control bureau office in Des Moines.~~

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

ITEM 8. Amend subrules 68.71(3) and 68.71(5) as follows:

68.71(3) A license pursuant to this rule expires June 30 ~~annually~~ biennially and is not transferable between truck bodies.

68.71(5) The cost of the can milk truck body license is ~~\$25 per year~~ \$50.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3249C**EARLY CHILDHOOD IOWA STATE BOARD[249]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256I.4(9), the Early Childhood Iowa State Board hereby amends Chapter 1, "Early Childhood Iowa Initiative," Iowa Administrative Code.

The Early Childhood Iowa Initiative was established by the General Assembly to create a partnership between communities and state-level partners to improve the efficiency and effectiveness of early care, education, health, and human services to support children prenatal through age five and their families.

The amendments to Chapter 1 update the rules to comply with 2016 Iowa Acts, chapter 1113. These amendments include updates to the definitions and references to the levels of excellence designation and removal of outdated language.

No waiver provision is included because the Early Childhood Iowa State Board has adopted a waiver policy for the initiative.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on April 12, 2017, as **ARC 3011C**. The Early Childhood Iowa State Board received no comments on the Notice of Intended Action during the public comment period; therefore, no changes were made to the amendments as published under Notice of Intended Action.

The Early Childhood Iowa State Board adopted these amendments on June 2, 2017.

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

These amendments are intended to implement Iowa Code chapter 256I as amended by 2016 Iowa Acts, chapter 1113.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule **249—1.3(256I)**, definition of "Designation," as follows:

"Designation" means the status awarded by the state board to an early childhood Iowa area meeting the criteria ~~and the levels of excellence rating system~~ established by the state board.

ITEM 2. Adopt the following new definition of "Family support programs" in rule **249—1.3(256I)**:

"Family support programs" includes group-based parent education or home visiting programs that are designed to strengthen protective factors, including parenting skills, increasing parental knowledge of child development, and increasing family functioning and problem solving skills.

ITEM 3. Amend subrule 1.4(2) as follows:

1.4(2) The state board shall:

a. ~~Develop a levels of excellence rating system for~~ and implement a process for designating area boards.

(1) ~~The rating system is the mechanism by which an area board is designated.~~

(2) ~~The rating system shall include the following four levels: probation, compliant, quality, and model.~~

(3) ~~The state board shall adopt criteria for each level.~~

(4) The state board shall review the process at the close of each designation cycle.

EARLY CHILDHOOD IOWA STATE BOARD[249](cont'd)

b. Adopt state-level indicators with input from area boards and the early childhood stakeholders alliance. The state board shall report on indicators each fiscal year and compare the data against baseline data and data from prior fiscal years as available. Indicators shall measure all result areas of the early care, health and education system.

c. Adopt minimum standards to promote equal access to services subject to the authority of the area boards.

d. Adopt guidelines and standards for services provided under a school ready children grant. All guidelines and standards shall be found in the online toolkit available on the official Web site of early childhood Iowa at www.earlychildhoodiowa.org.

e. In cooperation with the early childhood stakeholders alliance:

(1) Further the development of an early childhood integrated data system across state agencies and other partners.

(2) Develop guidance to identify and improve the quality of services in early care, health and education programs, including evidence-based practices.

(3) Promote other measures to advance the initiative.

ITEM 4. Amend subrule 1.6(2) as follows:

1.6(2) The state board may waive any of the minimum criteria referenced in Iowa Code section 256I.6, if it is determined that exceptional circumstances exist. The state board further defines exceptional circumstances to include ~~the following:~~

~~*a.* The when the proposed change of boundaries creates hardship that reduces performance or quality of services within the area. The area board must provide compelling documentation of the hardship and clearly document the impact to performance or quality of services or both.~~

~~*b.* The area board is granted model level of performance within the levels of excellence rating system by the state board.~~

ITEM 5. Rescind and reserve rule ~~249—1.8(83GA,SF2088)~~.

[Filed 6/19/17, effective 9/6/17]

[Published 8/2/17]

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ARC 3233C

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT
DEPARTMENT[605]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 34A.22, the Homeland Security and Emergency Management Department hereby amends Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

These amendments implement 2017 Iowa Acts, Senate File 500, which amends Iowa Code chapter 34A. A majority of these amendments change the terms "Enhanced 911" and "E911" to "911" to reflect the merging of E911 with Next Generation 911 services to make improvements to the network. For policy implementation purposes, it is easier to simply refer to the telephone system and the associated elements as 911.

Several definitions are updated to reflect the current and future operating environment for 911 telephone systems and the public and private partners that are involved in their operation.

No amendments have been made to the flow of the wireline 911 service surcharge detailed in rule 605—10.5(34A).

Several amendments are made to the flow of the emergency communication service surcharge as described in rule 605—10.9(34A). The result of these amendments is as follows:

- The surcharge pass-through to the public safety answering point (PSAP) remains at 60 percent.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

- Wireless carrier cost recovery remains in place.
- Originating service providers, wireline carriers, and third-party 911 providers' cost recovery remains in place.
 - The program manager is allowed to make grants to the joint 911 service boards and the Department of Public Safety to develop and maintain geographic information system data.
 - Language related to the use of surcharge funds to pay for costs associated with the financing of the statewide interoperable communications system is removed.
 - The amount of funding available for use from the Carryover Fund is increased from \$4.4 million in fiscal year 2017 to \$7 million in fiscal year 2018.
 - Carryover funds may be used for grants for PSAPs to physically consolidate. Grants for virtual consolidation are removed.
 - Carryover funds not utilized for consolidation grants will pass equally to the PSAPs and be used in the manner for which the funds have been used in the past.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3090C** on June 7, 2017. In addition, a public hearing was conducted on June 27, 2017.

Two of the three comments received at the hearing dealt with the same issue. Within the definition of "voice over internet protocol," the phrase "internet protocol and a successor protocol" is used in the first numbered paragraph. The commenters both indicated that the appropriate phrase should read "internet protocol or a successor protocol" and would match the definition used by the Iowa Utilities Board to describe the same service. However, the definition in the Notice of Intended Action is the same as the definition in 2017 Iowa Acts, Senate File 500. In this instance, the appropriate remedy is to amend the definition in Iowa Code chapter 34A via the legislative process. The two commenters concur with this plan.

The third commenter expressed support of the rule making as proposed.

Three changes from the Notice have been made. In Item 3, a correction was made to the cross reference in the definition of "911 service plan," and the word "service" was added to the defined term of "voice over internet protocol" to match the definition in 2017 Iowa Acts, Senate File 500. In Item 19, a grammatical correction was made in rule 605—10.16(34A). The amendments are otherwise identical to those published under Notice.

The Homeland Security and Emergency Management Department adopted these amendments on July 12, 2017.

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

These amendments are intended to implement Iowa Code chapter 34A as amended by 2017 Iowa Acts, Senate File 500.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend **605—Chapter 10**, title, as follows:

~~ENHANCED~~ 911 TELEPHONE SYSTEMS

ITEM 2. Amend rule 605—10.1(34A) as follows:

605—10.1(34A) Program description. The purpose of this program is to provide for the orderly development, installation, and operation of ~~enhanced~~ 911 emergency telephone systems and to provide a mechanism for the funding of these systems, either in whole or in part. These systems shall be operated under governmental management and control for the public benefit. These rules shall apply to each joint ~~E911~~ 911 service board or alternative 28E entity as provided in Iowa Code chapter 34A and to each provider of ~~enhanced~~ 911 service.

ITEM 3. Amend the following definitions in rule **605—10.2(34A)**:

"Communications service" means a service capable of accessing, connecting with, or interfacing with a 911 system by dialing, initializing, or otherwise activating the system exclusively through the digits 911 by means of a local telephone device, ~~or~~ wireless communications device or any other device capable of interfacing with the 911 system.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

~~“E911 911 communications council”~~ means the council as established under the provisions of Iowa Code section 34A.15.

~~“E911 911 program manager”~~ means that person appointed by the director of the homeland security and emergency management department, and working with the ~~E911 911~~ communications council, to perform the duties specifically set forth in Iowa Code chapter 34A and this chapter.

~~“Enhanced 911 (E911) service area”~~ means the geographic area ~~to be served, or currently served under an enhanced 911 service plan, provided that any enhanced 911 service area shall at a minimum encompass~~ encompassing at least one entire county. The enhanced 911 service area, and which may encompass more than a geographical area outside the one entire county and need not be restricted to county boundaries, serviced or to be serviced under a 911 service plan. This definition applies only to wire-line enhanced 911 service.

~~“Enhanced 911 (E911) service plan (wire-line)”~~ means a plan, produced by a joint ~~E911 911~~ service board, which includes the information required by Iowa Code subsection ~~34A.2(7)~~ 34A.2(2) as enacted by 2017 Iowa Acts, Senate File 500, section 3.

~~“Enhanced wireless 911 Wireless NG911 service area”~~ means the geographic area to be served, or currently served, by a PSAP under ~~an enhanced a~~ wireless 911 NG911 service plan.

~~“Joint E911 911 service board”~~ means those entities that are created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code subsection 34A.3(3), and that operate a 911 telephone system for the public benefit within a defined 911 service area.

~~“Selective routing (SR)”~~ means ~~an enhanced a~~ 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a predesignated PSAP.

~~“Voice over internet protocol service”~~ means a technology used to transmit voice conversations over a data network such as a computer network or internet. means a service to which all of the following apply:

1. The service provides real-time, two-way voice communications transmitted using internet protocol and a successor protocol.
2. The service is offered to the public, or such classes of users as to be effectively available to the public.
3. The service has the capability to originate traffic to, and terminate traffic from, the public switched telephone network or a successor network.

~~“Wireless E911 phase 1”~~ means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the address of the tower that received the call to the appropriate public safety answering point.

~~“Wireless E911 phase 2”~~ means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

~~“Wire-line E911 Wireline 911 service surcharge”~~ means a charge assessed on each ~~wire-line~~ wireline access line which physically terminates within the ~~E911 911~~ service area in accordance with Iowa Code section 34A.7.

ITEM 4. Rescind the definitions of “Communications service provider,” “Enhanced 911 service surcharge,” and “Wireless communications surcharge” in rule **605—10.2(34A)**.

ITEM 5. Adopt the following **new** definitions in rule **605—10.2(34A)**:

~~“Emergency communications service surcharge”~~ means a charge established by the program manager in accordance with Iowa Code section 34A.7A.

~~“Emergency services internet protocol network”~~ or ~~“ESInet”~~ means a system using broadband packet-switched technology that is capable of supporting the transmission of varying types of data to be shared by all public and private safety agencies that are involved in an emergency.

~~“Geographic information system”~~ or ~~“GIS”~~ means a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographical data.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

“*Next generation 911 network*” means an internet protocol-enabled system that enables the public to transmit digital information to public safety answering points and replaces enhanced 911 and that includes ESI^{net}, GIS, cybersecurity, and other system components.

“*Originating service provider*” means a communications provider that allows its users or subscribers to originate 911 voice or nonvoice messages from the public to public safety answering points, including but not limited to wireline, wireless, and voice over internet protocol services.

ITEM 6. Amend rule 605—10.3(34A) as follows:

605—10.3(34A) Joint ~~E911~~ 911 service boards. Each county board of supervisors shall establish a joint ~~E911~~ 911 service board.

10.3(1) Membership.

a. Each political subdivision of the state, having a public safety agency serving territory within the county ~~E911~~ 911 service area, and each local emergency management agency as defined in Iowa Code section 29C.2 operating within the 911 service area is entitled to one voting membership. For the purposes of this paragraph, a township that operates a volunteer fire department providing fire protection services to the township, or a city that provides fire protection services through the operation of a volunteer fire department not financed through the operation of city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county.

b. Each private safety agency, such as privately owned ambulance services, airport security agencies, and private fire companies, serving territory within the county ~~E911~~ 911 service area, is entitled to a nonvoting membership on the board.

c. Public and private safety agencies headquartered outside but operating within a county ~~E911~~ 911 service area are entitled to membership according to their status as a public or private safety agency.

d. A political subdivision that does not operate its own public safety agency but contracts for the provision of public safety services is not entitled to membership on the joint ~~E911~~ 911 service board. However, its contractor is entitled to one voting membership according to the contractor’s status as a public or private safety agency.

e. The joint ~~E911~~ 911 service board elects a chairperson and vice chairperson.

f. The joint ~~E911~~ 911 service board shall annually submit a listing of members, to include the political subdivision they represent and, if applicable, the associated 28E agreement, to the ~~E911~~ 911 program manager. A copy of the list shall be submitted within 30 days of adoption of the operating budget for the ensuing fiscal year and shall be on the prescribed form provided by the ~~E911~~ 911 program manager.

10.3(2) Alternate 28E entity. The joint ~~E911~~ 911 service board may organize as an Iowa Code chapter 28E agency as authorized in Iowa Code subsection 34A.3(3), provided that the 28E entity meets the voting and membership requirements of Iowa Code subsection 34A.3(1).

10.3(3) Joint ~~E911~~ 911 service board bylaws. Each joint ~~E911~~ 911 service board shall develop bylaws to specify, at a minimum, the following information:

a. The name of the joint ~~E911~~ 911 service board.

b. to m. No change.

Each member shall sign the adopted bylaws.

The joint ~~E911~~ 911 service board shall record the signed bylaws with the county recorder and shall forward a copy of the signed bylaws to the ~~E911~~ 911 program manager at the homeland security and emergency management department.

10.3(4) Executive board. The joint ~~E911~~ 911 service board may, through its bylaws, establish an executive board to conduct the business of the joint ~~E911~~ 911 service board. Members of the executive board must be selected from the eligible voting members of the joint ~~E911~~ 911 service board. The executive board will have such other duties and responsibilities as assigned by the joint ~~E911~~ 911 service board.

10.3(5) Meetings.

a. The provisions of Iowa Code chapter 21, “Official Meetings Open to the Public,” are applicable to joint ~~E911~~ 911 service boards.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

b. Joint ~~E911~~ 911 service boards shall conduct meetings in accordance with their established bylaws and applicable state law.

ITEM 7. Amend rule 605—10.4(34A) as follows:

605—10.4(34A) Enhanced 911 service plan (wire-line).

10.4(1) The joint ~~E911~~ 911 service board shall be responsible for developing ~~an E911~~ a 911 service plan as required by Iowa Code section 34A.3 and as set forth in these rules. The plan will remain the property of the joint ~~E911~~ 911 service board. Each joint ~~E911~~ 911 service board shall coordinate planning with each contiguous joint ~~E911~~ 911 service board. A copy of the plan and any modifications and addenda shall be submitted to:

- a. The homeland security and emergency management department.
- b. All public and private safety agencies serving the ~~E911~~ 911 service area.
- c. All providers affected by the ~~E911~~ 911 service plan.

10.4(2) The ~~E911~~ 911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the director. Each plan shall include:

- a. The mailing address of the joint ~~E911~~ 911 service board.
- b. A list of voting members on the joint ~~E911~~ 911 service board.
- c. A list of nonvoting members on the joint ~~E911~~ 911 service board.
- d. The name of the chairperson and of the vice chairperson of the joint ~~E911~~ 911 service board.
- e. A geographical description of the ~~enhanced~~ 911 service area.
- f. A list of all public and private safety agencies within the ~~E911~~ 911 service area.
- g. The number of public safety answering points within the ~~E911~~ 911 service area.
- h. Identification of the agency responsible for management and supervision of the ~~E911~~ 911 emergency telephone communication system.
- i. A statement of recurring and nonrecurring costs to be incurred by the joint ~~E911~~ 911 service board. These costs shall be limited to costs directly attributable to the provision of ~~E911~~ 911 service.
- j. The total number of telephone access lines by a telephone company or companies having points of presence within the ~~E911~~ 911 service area and the number of this total that is exempt from surcharge collection as provided in rule 605—10.9(34A) and Iowa Code subsection 34A.7(3).
- k. If applicable, a schedule for implementation of the plan throughout the ~~E911~~ 911 service area. A joint ~~E911~~ 911 service board may decide not to implement ~~E911~~ 911 service.
- l. The total property valuation in the ~~E911~~ 911 service area.
- m. Maps of the ~~E911~~ 911 service area showing:
 - (1) to (5) No change.
- n. and o. No change.

10.4(3) All plan modifications and addenda shall be filed with, reviewed, and approved by the ~~E911~~ 911 program manager.

10.4(4) The ~~E911~~ 911 program manager shall base acceptance of the plan upon compliance with the provisions of Iowa Code chapter 34A and the rules herein.

10.4(5) The ~~E911~~ 911 program manager will notify in writing, within 20 days of review, the chairperson of the joint ~~E911~~ 911 service board of the approval or disapproval of the plan.

- a. If the plan is disapproved, the joint ~~E911~~ 911 service board will have 90 days from receipt of notice to submit revisions/addenda.
- b. Notice for disapproved plans will contain the reasons for disapproval.
- c. The ~~E911~~ 911 program manager will notify the chairperson, in writing within 20 days of review, of the approval or disapproval of the revisions.

ITEM 8. Amend rule 605—10.5(34A) as follows:

605—10.5(34A) Wire-line ~~E911~~ Wireline 911 service surcharge.

10.5(1) One source of funding for the ~~E911~~ 911 emergency communications system shall come from a surcharge of one dollar per month, per access line on each access line subscriber.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

10.5(2) The ~~E911 911~~ program manager shall notify a local ~~communications service provider~~ exchange carriers and competitive local exchange service providers scheduled to provide exchange access ~~E911 911~~ service within an ~~E911 a 911~~ service area that implementation of an ~~E911 a 911~~ service plan has been approved by the joint ~~E911 911~~ service board and by the ~~E911 911~~ program manager and that collection of the surcharge is to begin within 60 days. The ~~E911 911~~ program manager shall also provide notice to all affected public safety answering points. The 60-day notice to ~~local exchange service~~ the carriers and providers shall also apply when an adjustment in the ~~wire-line wireline~~ surcharge rate is made.

10.5(3) The ~~local communications service provider~~ carriers and providers shall collect the surcharge as a part of its their monthly billing to its their subscribers. The surcharge shall appear as a single line item on a subscriber's monthly billing entitled "E911 911 emergency communications service surcharge."

10.5(4) The ~~local communications service provider~~ carriers and providers may retain 1 percent of the surcharge collected as compensation for the billing and collection of the surcharge. If the compensation is insufficient to fully recover a carrier's or provider's costs for the billing and collection of the surcharge, the deficiency shall be included in the carrier's or provider's costs for rate-making purposes to the extent it is reasonable and just under Iowa Code section 476.6.

10.5(5) The ~~local communications service~~ carrier or provider shall remit the collected surcharge to the joint ~~E911 911~~ service board on a calendar quarter basis within 20 days of the end of the quarter.

10.5(6) The joint ~~E911 911~~ service board may request, not more than once each quarter, the following information from the ~~local communications service~~ carrier or provider:

a. to e. No change.

f. The amount retained by the ~~local communications service~~ carrier or provider from the 1 percent administrative fee.

Access line counts and surcharge remittances are confidential public records as provided in Iowa Code section 34A.8.

10.5(7) Collection for a surcharge shall terminate if ~~E911 911~~ service ceases to operate within the respective ~~E911 911~~ service area. The ~~E911 911~~ program manager for good cause may grant an extension.

a. The director shall provide 100 days' prior written notice to the joint ~~E911 911~~ service board or the operating authority and to the ~~local communications service~~ carrier(s) or provider(s) collecting the fee of the termination of surcharge collection.

b. Individual subscribers within the ~~E911 911~~ service area may petition the joint ~~E911 911~~ service board or the operating authority for a refund. Petitions shall be filed within one year of termination. Refunds may be prorated and shall be based on funds available and subscriber access lines billed.

c. At the end of one year from the date of termination, any funds not refunded and remaining in the ~~E911 911~~ service fund and all interest accumulated shall be retained by the joint ~~E911 911~~ service board. However, if the joint ~~E911 911~~ service board ceases to operate any ~~E911 911~~ service, the balance in the ~~E911 911~~ service fund shall be payable to the homeland security and emergency management department. Moneys received by the department shall be used only to offset the costs for the administration of the ~~E911 911~~ program.

ITEM 9. Amend rule 605—10.6(34A) as follows:

605—10.6(34A) Waivers, variance request, and right to appeal.

10.6(1) All requests for variances or waivers shall be submitted to the ~~E911 911~~ program manager in writing and shall contain the following information:

a. and b. No change.

c. A copy of the resolution or minutes of the joint ~~E911 911~~ service board meeting which authorizes the application for a variance or waiver.

d. The signature of the chairperson of the joint ~~E911 911~~ service board.

10.6(2) The ~~E911 911~~ program manager may grant a variance or waiver based upon the provisions of Iowa Code chapter 34A or other applicable state law.

10.6(3) Upon receipt of a request for a variance or waiver, the ~~E911 911~~ program manager shall evaluate the request and schedule a review within 20 working days of receipt of the request. Review

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

shall be informal, and the petitioner may present materials, documents and testimony in support of the petitioner's request. The ~~E911~~ 911 program manager shall determine if the request meets the criteria established and shall issue a decision within 20 working days. The ~~E911~~ 911 program manager shall notify the petitioner, in writing, of the acceptance or rejection of the petition. If the petition is rejected, such notice shall include the reasons for denial.

ITEM 10. Amend rule 605—10.7(34A) as follows:

605—10.7(34A) ~~Enhanced wireless E911 service plan~~ Wireless NG911 Implementation and Operations Plan. Each joint ~~E911~~ 911 service board, the department of public safety, the ~~E911~~ 911 communications council, and wireless communications service providers shall cooperate with the ~~E911~~ 911 program manager in preparing ~~an enhanced wireless E911 service plan~~ the Wireless NG911 Implementation and Operations Plan for statewide implementation of ~~enhanced wireless E911~~ NG911 service.

10.7(1) *Plan specifications.* The ~~enhanced wireless E911 service plan~~ Wireless NG911 Implementation and Operations Plan shall include, at a minimum, the following information:

1. Maps showing the geographic location within the county of each PSAP that receives ~~enhanced wireless E911~~ 911 telephone calls.

2. to 4. No change.

10.7(2) No change.

ITEM 11. Amend rule 605—10.8(34A) as follows:

605—10.8(34A) Emergency communications service surcharge.

10.8(1) The ~~E911~~ 911 program manager shall adopt a monthly surcharge of one dollar to be imposed on each ~~wireless communications originating~~ service number provided in this state. The surcharge shall not be imposed on ~~wire-line-based~~ wireline-based communications or prepaid wireless telecommunications service.

10.8(2) The ~~E911~~ 911 program manager shall order the imposition of a surcharge uniformly on a statewide basis and simultaneously on all ~~communications originating~~ service numbers by giving at least 60 days' prior notice to wireless carriers to impose a monthly surcharge as part of their periodic billings. The 60-day notice to wireless carriers shall also apply when the program manager is making an adjustment in the wireless emergency communications service surcharge rate.

10.8(3) The wireless emergency communications surcharge shall be one dollar per month, per customer service number, until changed by rule.

10.8(4) The communications originating service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for ~~E911~~ 911 emergency telephone service. The communications originating service provider is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing. The ~~wireless E911 emergency communications service~~ surcharge is not subject to sales or use tax.

10.8(5) Surcharge funds shall be remitted on a calendar quarter basis by the close of business on the twentieth day following the end of the quarter with a remittance form as prescribed by the ~~E911~~ 911 program manager. Providers shall issue their checks or warrants to the Treasurer, State of Iowa, and remit to the ~~E911~~ 911 Program Manager, Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324.

ITEM 12. Amend rule 605—10.9(34A) as follows:

605—10.9(34A) E911 911 emergency communications fund.

10.9(1) ~~Wireless E911~~ Emergency communications service surcharge money, collected and remitted by ~~wireless originating~~ service providers, shall be placed in a fund within the state treasury under the control of the director.

10.9(2) No change.

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10.9(3) Moneys in the fund shall be expended and distributed in the following manner and order of priority:

a. An amount as appropriated by the general assembly to the department shall be allocated to the director and program manager for implementation, support, and maintenance of the functions of the director and program manager and to employ the auditor of state to perform an annual audit of the ~~E911~~ 911 emergency communications fund.

b. The program manager shall allocate to each joint ~~E911~~ 911 service board and to the department of public safety a minimum of \$1,000 per calendar quarter for each public safety answering point (PSAP) within the service area of the department of public safety or joint ~~E911~~ 911 service board that has submitted an annual written request to the program manager. The written request shall be made with the Request for Wireless ~~E911~~ 911 Funds form contained in the Wireless NG911 Implementation and Operations Plan. The request is due to the program manager by May 15, or the next business day, of each year.

(1) The amount allocated under paragraph 10.9(3) “*b*” shall be 60 percent of the total amount of surcharge generated per calendar quarter. The minimum amount allocated to the department of public safety and the joint ~~E911~~ 911 board shall be \$1,000 per PSAP operated by the respective authority.

(2) Additional funds shall be allocated as follows:

1. Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the 911 service area to the total square miles in this state.

2. Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless ~~E911~~ 911 calls taken at the PSAP in the 911 service area to the total number of wireless ~~E911~~ 911 calls originating in this state.

(3) The funds allocated in paragraph 10.9(3) “*b*” shall be used by the PSAPs for costs related to the receipt and disposition of 911 calls.

c. No change.

d. The program manager shall reimburse communications service providers on a calendar quarter basis for carriers’ eligible expenses for transport costs between the wireless selective router and the PSAPs related to the delivery of wireless E911 phase I 1 services and the integration of an ~~Internet~~ internet protocol-enabled next generation 911 network as specified in the Wireless NG911 Implementation and Operations Plan. The program manager may also provide grants to the joint 911 service boards and the department of public safety for the purpose of developing and maintaining GIS data to be used in support of the next generation 911 network. The program manager shall provide a notice of availability of such grants and provide guidance and application forms on the department’s Web site, www.homelandsecurity.iowa.gov.

e. The program manager shall reimburse ~~wire-line~~ wireline carriers and third-party ~~E911~~ 911 automatic location information database providers on a quarterly basis for the costs of maintaining and upgrading the ~~E911~~ 911 components and functionalities beyond the input to the ~~E911~~ 911 selective router, including the ~~E911~~ 911 selective router and the automatic location information database.

~~*f.* The program manager shall allocate \$4,380,000 to the department of public safety in the fiscal year beginning July 1, 2016, and ending June 30, 2017, for payments and other costs due under the financing agreement entered into by the treasurer of state for building the statewide interoperable communications system pursuant to Iowa Code section 29C.23(2) as amended by 2016 Iowa Acts, Senate File 2326.~~

~~*g.*~~ *f.* The department may, in a reserve account established within the ~~E911~~ 911 emergency communications fund, credit each fiscal year an amount of up to 12½ percent of the annual emergency communications service surcharge collected pursuant to rule 605—10.8(34A) and the prepaid wireless ~~E911~~ 911 surcharge collected pursuant to rule 605—10.17(34A). However, the moneys contained in such reserve account shall not exceed 12½ percent of the total surcharges collected for each fiscal year. Moneys credited to the reserve account shall only be used by the department for the purpose of repairing or replacing equipment in the event of a catastrophic equipment failure, as determined by the director.

~~*h.*~~ *g.* If moneys remain in the fund after all obligations are fully paid under paragraphs 10.9(3) “*a*,” “*b*,” “*c*,” “*d*,” “*e*,” and “*f*,” and ~~“*g*,”~~ an amount of up to \$4,400,000 \$7,000,000 shall, for the fiscal

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year beginning July 1, ~~2016~~ 2017, and ending June 30, ~~2017~~ 2018, be expended and distributed in the following priority order:

(1) The director, in consultation with the program manager and the ~~E911~~ 911 communications council, may provide grants for nonrecurring costs to the department of public safety or joint ~~E911~~ 911 service board operating a PSAP agreeing to consolidate. For purposes of this subparagraph, "consolidate" means ~~either~~ the consolidation of all PSAP systems, functions, ~~enhanced~~ 911 service areas, and physical facilities of two or more PSAPs, resulting in responsibility by the consolidated PSAP for all call answering and dispatch functions for the combined ~~enhanced~~ 911 service area, ~~or the consolidation of two or more PSAPs utilizing shared services technology to combine PSAP systems, including but not limited to 911 call processing equipment, computer-aided dispatch, mapping, radio, and logging recorders.~~ Such a grant to a PSAP shall not exceed one-half of the projected cost of consolidation, or \$200,000, whichever is less. The department of public safety or joint ~~E911~~ 911 service board wishing to apply for such funds shall complete an Intent to Consolidate Application form prior to December 1, ~~2016~~ 2017. The form can be found on the department's Web site, www.homelandsecurity.iowa.gov. Such applications shall provide a detailed consolidation plan and demonstrate that the proposed project shall be completed prior to June 30, ~~2017~~ 2018.

(2) The program manager, in consultation with the ~~E911~~ 911 communications council, shall allocate an amount, not to exceed \$100,000 per fiscal year, for development of public awareness and educational programs related to the use of 911 by the public; for educational programs for personnel responsible for the maintenance, operation, and upgrading of local ~~E911~~ 911 systems; and for the expenses of members of the ~~E911~~ 911 communications council for travel, monthly meetings, and training, provided, however, that the members have not received reimbursement funds for such expenses from another source.

(3) The program manager shall allocate an equal amount of moneys to each PSAP for the following costs:

1. No change.
2. Local costs related to access the statewide interoperable communications system pursuant to Iowa Code section 29C.23 as ~~amended by 2016 Iowa Acts, Senate File 2326.~~

(4) No change.

10.9(4) Payments to local communications service providers and wireless service providers shall be made quarterly, based on original, itemized claims or invoices presented within 20 days of the end of the calendar quarter. Claims or invoices not submitted within 20 days of the end of the calendar quarter are not eligible for reimbursement and may not be included in future claims and invoices. Payments to providers shall be made in accordance with these rules and the State Accounting Policy and Procedures Manual.

10.9(5) Local communications service providers shall be reimbursed for only those items and services that are defined as eligible in the ~~enhanced wireless 911 service plan~~ Wireless NG911 Implementation and Operations Plan and when initiation of service has been ordered and authorized by the ~~E911~~ 911 program manager.

10.9(6) If it is found that an overpayment has been made to an entity, the ~~E911~~ 911 program manager shall attempt recovery of the debt from the entity by certified letter. Due diligence shall be documented and retained at the homeland security and emergency management department. If resolution of the debt does not occur and the debt is at least \$50, the homeland security and emergency management department will then utilize the income offset program through the department of revenue. Until resolution of the debt has occurred, the homeland security and emergency management department may withhold future payments to the entity.

ITEM 13. Amend rule 605—10.10(34A) as follows:

605—10.10(34A) ~~E911~~ 911 surcharge exemptions. The following agencies, individuals, and organizations are exempt from imposition of the ~~E911~~ 911 surcharge:

1. No change.

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2. Indian tribes for access lines on the tribe's reservation upon filing a statement with the joint ~~E911~~ 911 service board, signed by appropriate authority, requesting surcharge exemption.

3. An enrolled member of an Indian tribe for access lines on the reservation, who does not receive ~~E911~~ 911 service, and who annually files a signed statement with the joint ~~E911~~ 911 service board that the person is an enrolled member of an Indian tribe living on a reservation and does not receive ~~E911~~ 911 service. However, once ~~E911~~ 911 service is provided, the member is no longer exempt.

4. No change.

5. Individual ~~wire-line~~ wireline subscribers to the extent that they shall not be required to pay on a single periodic billing the surcharge on more than 100 access lines, or their equivalent, in ~~an E911 a~~ 911 service area.

All other subscribers not listed above, that have or will have the ability to access 911, are required to pay the surcharge, if imposed by the official order of the ~~E911~~ 911 program manager.

ITEM 14. Amend rule 605—10.11(34A) as follows:

605—10.11(34A) ~~E911~~ 911 service fund.

10.11(1) The department of public safety and each joint ~~E911~~ 911 service board have the responsibility for the ~~E911~~ 911 service fund.

a. ~~An E911 A~~ 911 service fund shall be established in the office of the county treasurer for each joint ~~E911~~ 911 service board and with the state treasurer for the department of public safety.

b. Collected surcharge moneys and any interest thereon, as authorized in Iowa Code chapter 34A, shall be deposited into the ~~E911~~ 911 service fund. ~~E911~~ 911 surcharge moneys must be kept separate from all other sources of revenue utilized for ~~E911~~ 911 systems.

c. For joint ~~E911~~ 911 service boards, withdrawal of moneys from the ~~E911~~ 911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or vice chairperson of the joint ~~E911~~ 911 service board or the appropriate operating authority so designated in writing.

d. For the department of public safety, withdrawal of moneys from the ~~E911~~ 911 service fund shall be made in accordance with state laws and administrative rules.

10.11(2) The ~~E911~~ 911 service funds shall be subject to examination by the department at any time during usual business hours. ~~E911~~ 911 service funds are subject to the audit provisions of Iowa Code chapter 11. A copy of all audits of the ~~E911~~ 911 service fund shall be furnished to the department within 30 days of receipt. If through the audit or monitoring process the department determines that a joint ~~E911~~ 911 service board is not adhering to an approved plan or does not have a valid board membership, or if the department determines that a joint ~~E911~~ 911 service board or the department of public safety is not using funds in the manner prescribed in these rules or Iowa Code chapter 34A, the director may, after notice and hearing, suspend surcharge imposition and order termination of expenditures from the ~~E911~~ 911 service fund. The joint ~~E911~~ 911 service board or department of public safety is not eligible to receive or expend surcharge moneys until such time as the ~~E911~~ 911 program manager determines that the board or department of public safety is in compliance with the approved plan, board membership, and fund usage limitations.

ITEM 15. Rescind and reserve rule **605—10.12(34A)**.

ITEM 16. Amend rule 605—10.13(34A) as follows:

605—10.13(34A) Limitations on use of funds. Surcharge moneys in the ~~E911~~ 911 service fund may be used to pay recurring and nonrecurring costs including, but not limited to, network equipment, software, database, addressing, initial training, and other start-up, capital, and ongoing expenditures. ~~E911~~ 911 surcharge moneys shall be used only to pay costs directly attributable to the provision of ~~E911~~ 911 telephone systems and services and may include costs directly attributable to the receipt and disposition of the 911 call.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

ITEM 17. Amend rule 605—10.14(34A) as follows:

605—10.14(34A) Minimum operational and technical standards.

10.14(1) Each ~~E911~~ 911 system, supplemented with ~~E911~~ 911 surcharge moneys, shall, at a minimum, employ the following features:

a. to c. No change.

d. Each PSAP shall provide two emergency seven-digit numbers arranged in rollover configuration for use by telephone company operators for transferring a calling party to the PSAP over the ~~wire-line~~ wireline network. Wireless calls must be transferred to PSAPs that are capable of accepting ANI and ALI.

e. No change.

10.14(2) ~~E911~~ 911 public safety answering points shall adhere to the following minimum standards:

a. No change.

b. The primary published emergency number in the ~~E911~~ 911 service area shall be 911.

c. to l. No change.

10.14(3) ~~Communications~~ Originating service providers shall adhere to the following minimum requirements:

a. The PSAP and ~~E911~~ the 911 program manager shall be notified of all service interruptions in accordance with 47 CFR Part 4.

b. ~~All communications service providers shall submit separate itemized bills to the E911 program manager, the department of public safety, a joint E911 service board or PSAP operating authority, as appropriate.~~

e. b. The ~~communications~~ originating service provider shall respond, within a reasonable length of time, to all appropriate requests for information from the director, the department of public safety, a joint ~~E911~~ 911 service board or operating authority and shall expressly comply with the provisions of Iowa Code section 34A.8.

d. c. Access to the wireless ~~E911~~ 911 selective router and next generation 911 network shall be approved by the ~~E911~~ 911 program manager. ~~Communications~~ Originating service providers must provide the company name, address and point of contact with their request. If the ~~communications~~ originating service provider utilizes a third-party vendor, the vendor must provide this information listing the vendor's customer's requested information.

10.14(4) Voluntary standards. Current technical and operational standards applying to ~~E911~~ 911 systems and services can be found in the "American Society for Testing and Materials Standard Guide for Planning and Developing 911 Enhanced Telephone Systems" and in publications issued by the National Emergency Number Association. Master street address guides are encouraged to be developed and maintained by using National Emergency Number Association technical standards 02-010 and 02-011. Standards contained in these documents shall be considered as guidance, and adherence thereto shall be voluntary. Notwithstanding the minimum standards published in these rules, it is intended that ~~E911~~ communications 911 originating service providers and joint ~~E911~~ 911 service boards and operating authorities employ the best and most affordable technologies and methods available in providing ~~E911~~ 911 services to the public.

ITEM 18. Amend rule 605—10.15(34A) as follows:

605—10.15(34A) Administrative hearings and appeals.

10.15(1) ~~E911~~ 911 program manager decisions regarding the acceptance or refusal of ~~an E911~~ a 911 service plan, in whole or in part, the implementation of ~~E911~~ 911 and the imposition of the ~~E911~~ 911 surcharge within a specific ~~E911~~ 911 service area may be contested by an affected party.

10.15(2) Request for hearing shall be made in writing to the homeland security and emergency management department director within 30 days of the ~~E911~~ 911 program manager's mailing or serving of a decision and shall state the reason(s) for the request and shall be signed by the appropriate authority.

10.15(3) to 10.15(6) No change.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

ITEM 19. Amend rule 605—10.16(34A) as follows:

605—10.16(34A) Confidentiality. All financial or operations information provided by a ~~communications~~ an originating service provider to the ~~E911~~ 911 program manager shall be identified by the provider as confidential trade secrets under Iowa Code section 22.7(3) and shall be kept confidential as provided under Iowa Code section 22.7(3) and ~~Iowa Administrative Code 605—Chapter 5~~. Such information shall include numbers of accounts, numbers of customers, revenues, expenses, and the amounts collected from said ~~communications~~ originating service provider for deposit in the fund. Notwithstanding such requirements, aggregate amounts and information may be included in reports issued by the director if the aggregated information does not reveal any information attributable to an individual ~~communications~~ originating service provider.

ITEM 20. Amend rule 605—10.17(34A) as follows:

605—10.17(34A) Prepaid wireless ~~E911~~ 911 surcharge. Administration of the prepaid wireless ~~E911~~ 911 surcharge is under the control of the Iowa department of revenue. To administer this function, the department of revenue has adopted rules that can be found in 701—paragraph 224.6(2) “b” and rule 701—224.8(34A), ~~Iowa Administrative Code~~.

ITEM 21. Amend **605—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 34A as amended by 2017 Iowa Acts, Senate File 500.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3234C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments allow home- and community-based services (HCBS) waiver service members who are inpatients in a hospital or medical institution for 31 to 120 days to resume waiver services upon discharge without having to reapply and go back on the waiver wait list. Currently, if a member is an inpatient for more than 30 days, the HCBS waiver is canceled and the member must reapply and be placed on the waiver wait list. This often results in a gap in services between the member’s discharge from the facility and the resumption of waiver services once the application has been processed. This also results in nonpayment issues for providers who will also resume services following a member’s inpatient stay only to discover that the member is no longer eligible for HCBS waiver services and that the member must reapply for the waiver.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3077C** on May 24, 2017. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on July 12, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend paragraph **83.3(4)“d”** as follows:

d. Eligibility continues until the member has been in a medical institution for 30 120 consecutive days for other than respite care. Members who are inpatients in a medical institution for 30 120 or more consecutive days for other than respite care shall be terminated from health and disability waiver services and reviewed for eligibility for other Medicaid coverage groups. The member will be notified of that decision through Form 470-0602, Notice of Decision. If the member returns home before the effective date of the notice of decision and the member's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 2. Amend paragraph **83.8(2)“c”** as follows:

c. The member receives care in a hospital, nursing facility, or intermediate care facility for persons with an intellectual disability for 30 120 days in any one stay for purposes other than respite care.

ITEM 3. Amend paragraph **83.23(4)“c”** as follows:

c. Eligibility continues until the consumer has been in a medical institution for 30 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.22(249A). Consumers who are inpatients in a medical institution for 30 120 or more consecutive days for other than respite care shall be terminated from elderly waiver services and reviewed for eligibility for other Medicaid coverage groups. The consumer will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 4. Amend paragraph **83.28(2)“c”** as follows:

c. The client receives care in a hospital or nursing facility for 30 120 days in any one stay for purposes other than respite care.

ITEM 5. Amend paragraph **83.43(4)“c”** as follows:

c. Eligibility for the waiver continues until the recipient has been in a medical institution for 30 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.42(249A). Recipients who are inpatients in a medical institution for 30 120 or more consecutive days for other than respite care shall be reviewed for eligibility for other Medicaid coverage groups and terminated from AIDS/HIV waiver services if found eligible under another coverage group. The recipient will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 6. Amend paragraph **83.48(2)“c”** as follows:

c. The client receives care in a hospital or nursing facility for 30 120 days or more in any one stay for purposes other than respite care.

ITEM 7. Amend paragraph **83.62(4)“d”** as follows:

d. Eligibility continues until the consumer fails to meet eligibility criteria listed in rule 441—83.61(249A). Consumers who are inpatients in a medical institution for 30 120 consecutive days shall receive a review by the interdisciplinary team to determine additional inpatient needs for possible termination from the HCBS program. Consumers shall be reviewed for eligibility under other Medicaid coverage groups. The consumer or legal representative shall participate in the review and receive formal notification of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's needs can still be met by the HCBS waiver services, the denial may be rescinded and eligibility may continue.

ITEM 8. Amend paragraph **83.83(3)“c”** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in rule 441—83.82(249A). Consumers who return to inpatient status in a medical institution for more than 30 120 consecutive days shall be reviewed by the IME medical services unit to determine additional

HUMAN SERVICES DEPARTMENT[441](cont'd)

inpatient needs for possible termination from the brain injury waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 9. Amend paragraph **83.103(3)“c”** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in subrule 83.102(1). Consumers who return to inpatient status in a medical institution for more than ~~30~~ 120 consecutive days shall be reviewed by the IME medical services unit to determine additional inpatient needs for possible termination from the physical disability waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 10. Amend paragraph **83.125(2)“b”** as follows:

b. The consumer is an inpatient of a medical institution for ~~30~~ 120 or more consecutive days.

(1) After the consumer has spent ~~30~~ 120 consecutive days in a medical institution, the local office shall terminate the consumer's waiver eligibility and review the consumer for eligibility under other Medicaid coverage groups. The local office shall notify the consumer and the consumer's parents or legal guardian through Form 470-0602, Notice of Decision.

(2) If the consumer returns home after ~~30~~ 120 consecutive days ~~but no more than 60 days~~, the consumer must reapply for children's mental health waiver services, and the IME medical services unit must redetermine the consumer's level of care.

ITEM 11. Amend paragraph **83.128(2)“c”** as follows:

c. The consumer receives care in a hospital, nursing facility, psychiatric hospital serving children under the age of 21, or psychiatric medical institution for children for ~~30~~ 120 days in any one stay.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3235C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 52, “Dependent Adult Abuse in Facilities and Programs,” Iowa Administrative Code.

The amendments add personal degradation as a form of dependent adult abuse by caretakers in facilities and programs regulated by the Department. The amendments provide that a caretaker in a facility or program licensed or certified by the Department may be found to have committed dependent adult abuse if the individual knowingly and willfully takes, transmits, or displays a photographic image that degrades the personal dignity of a dependent adult.

The amendments implement 2017 Iowa Acts, House File 544, which was signed into law by Governor Terry Branstad on March 30, 2017.

The Department does not believe that the amendments will pose any financial hardship on any regulated entity or individual.

The State Board of Health initially reviewed the amendments at its May 10, 2017, meeting and subsequently approved them at the Board's July 12, 2017, meeting.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2017, as **ARC 3110C**. Comments were received from LeadingAge Iowa and Iowa Legal Aid, both of which requested that the definition of “personal degradation” contained in Item 2 be amended to include those actions that do not constitute personal degradation as defined in the legislation. Several members of the State Board of Health also thought that clarification as to what does not constitute personal degradation should be included in the rule making. The Department agrees with these suggestions, and the definition of “personal degradation” has been revised to include the recommended language. This change will eliminate confusion regarding the taking or transmission of electronic images when used to document dependent adult abuse or when used in the course of medical diagnostics.

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

These amendments are intended to implement Iowa Code section 135C.14 and 2017 Iowa Acts, House File 544.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule **481—52.1(235E)**, definition of “Dependent adult abuse,” as follows:

“*Dependent adult abuse*” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, ~~or~~ neglect, or personal degradation. “Dependent adult abuse” does not include any of the following:

1. to 3. No change.

ITEM 2. Adopt the following **new** definition of “Personal degradation” in rule **481—52.1(235E)**:

“*Personal degradation*” means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. “Personal degradation” also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s or program’s confidentiality policy and release of information or consent policies.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3236C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” and adopts new Chapter 13, “Telepharmacy Practice,” Iowa Administrative Code.

The amendment to subrule 8.35(2) identifies a telepharmacy practice as a defined subset of a limited use pharmacy license type.

PHARMACY BOARD[657](cont'd)

The rules in new Chapter 13 provide standards for the provision of pharmaceutical services to patients through the use of audiovisual technologies that link a telepharmacy site with a managing pharmacy, allowing a verifying pharmacist at the remote pharmacy to oversee and verify the dispensing processes performed by the technician at the telepharmacy site. The audiovisual technology also ensures that the patient and the pharmacist are able to converse face to face, over secure connections, about the patient's drug treatment plan.

The rules define terms used in the chapter and assign responsibilities for various aspects of the practices involved. The rules require a written agreement between the managing pharmacy and the telepharmacy site and identify the specific required provisions and contents of the written agreement and what must occur in case the agreement is terminated or either pharmacy closes. The rules identify the general requirements for a telepharmacy site and a managing pharmacy and for a verifying pharmacist and a telepharmacy technician, including addressing specific training and experience requirements for those personnel.

The required information to be provided with the initial application for a limited use pharmacy license as a telepharmacy site and the minimum information to be provided in a request for waiver of the minimum distance between a proposed telepharmacy site and an existing pharmacy that dispenses prescription drugs to outpatients are identified. Specific application and notification requirements in the case of a change of telepharmacy site or managing pharmacy name, location, ownership, or pharmacist in charge are identified. The rules provide that the opening of a new pharmacy within 10 miles of an existing telepharmacy site does not force the closing of the telepharmacy site.

Subjects to be addressed by policies and procedures to be adopted and implemented by both the telepharmacy site and the managing pharmacy are listed, and information and reports required of a telepharmacy site or managing pharmacy are identified. The rules identify specific records that must be maintained by and available at a telepharmacy site, including records of the monthly inspection of the telepharmacy site by a pharmacist from the managing pharmacy.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34. Requirements for waiver of the specific restrictions regarding location of a telepharmacy site within 10 miles of another pharmacy that dispenses prescription drugs to outpatients are identified in subrule 13.16(8).

Notice of Intended Action was published in the April 26, 2017, Iowa Administrative Bulletin as **ARC 3037C**. In addition to the written and oral comments received prior to submission of the Notice of Intended Action, the Board received numerous written comments regarding the proposed amendments during the public comment period.

Many commenters addressed the requirement specifying a 10-mile distance between a telepharmacy and an existing retail pharmacy, objecting that 10 miles was too short a distance between these pharmacies. The distance restrictions to which these commenters objected were established in the Iowa Code, and the Board has no authority to require longer distances between the pharmacies. Others suggested that if a traditional pharmacy opens within 30 miles of an existing telepharmacy, the telepharmacy should be required to close. Another suggested that the rules should specifically prohibit a new telepharmacy site from opening within 15 miles of another telepharmacy site. Other comments indicated that requiring that the managing pharmacy and the telepharmacy be separated by no more than 200 miles allowed too great a distance between these two related and interdependent pharmacies. This distance was negotiated by numerous stakeholders before the Board approved the proposed rules.

One commenter suggested that requiring that the pharmacist in charge of the managing pharmacy also be the pharmacist in charge of the telepharmacy may place too great a responsibility on a single pharmacist if multiple telepharmacy sites were managed by the same pharmacy. Although the Board agreed that this could be a concern, the benefits derived from continuity between pharmacies with a single pharmacist in charge outweighed that concern. The telepharmacy is essentially an extension of the managing pharmacy, and requiring the same pharmacist in charge for both pharmacies ensures that training and policies and procedures will be in alignment with the needs of both pharmacies. The Board also considered that a managing pharmacy which believes that the same objectives can be attained by

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having different pharmacists take on the responsibilities at different locations can present the pharmacy's case in a request for waiver of the requirement.

Other commenters questioned the requirement that a pharmacist be on site at the telepharmacy for a minimum of 16 hours each month. The purpose for this minimum on-site requirement is to ensure that the pharmacist is available to perform a thorough inspection of the telepharmacy site and the activities performed at the telepharmacy site. Any portion of those on-site hours may also be spent in providing patient care services, including administering immunizations or performing medication therapy management, services that cannot be accomplished remotely and are not technician-authorized activities. If the pharmacy deems it appropriate, the pharmacist may be on site at the telepharmacy for more than 16 hours per month.

A commenter suggested that the required hours of training and experience for a pharmacy technician who will be practicing in a telepharmacy should, rather than be based on a measurement of time, be based on the technician's experience and understanding of policies and procedures, workflow, and accuracy of prescriptions filled. Others objected to the number of hours of practice experience required before a pharmacy technician is approved to practice in a telepharmacy, outside the physical presence and direct supervision of a pharmacist, and others expressed support for the training and experience requirements, including the requirement that a technician practicing in a telepharmacy site complete a minimum number of the technician's required continuing education credits in activities relating to patient safety and pharmacy law.

Numerous commenters expressed concerns with the requirement that a telepharmacy convert to a traditional general pharmacy practice when the average number of prescriptions exceeds 150 prescriptions per day. Some of those concerned felt that 150 prescriptions per day would be too many prescriptions for a pharmacy technician to safely fill. Others were concerned that the limit would prevent a pharmacy that wanted to extend the pharmacy's hours into longer evening or weekend hours to better serve the community's patients from employing that type of "hybrid" telepharmacy practice based on the prescription average. This provision was also discussed in depth with stakeholders before the Board approved the proposed rules.

Various commenters expressed support for the requirement that both the managing pharmacy and the telepharmacy be located within Iowa. Other commenters objected to requiring the managing pharmacy to be located within Iowa. Another suggested that an appropriately licensed Iowa pharmacist practicing at an appropriately licensed Iowa nonresident pharmacy should be permitted to provide remote verification of the filling processes to a telepharmacy site located in Iowa.

Other commenters suggested that some of the activities that the rules prohibit from being performed at a telepharmacy when there is no pharmacist present should be permitted in the absence of the pharmacist, including permitting a technician to package patient medications into a patient med pak (in which multiple prescription medications are comingled in a single packet or pouch for administration to the patient at a specified time of day), permitting a technician to prepare compounded products, and permitting a technician to check the work of another technician without a final check by a pharmacist (tech-check-tech).

A few comments centered on prescription label requirements. Some objected to the identification on the prescription label of both the managing pharmacy and telepharmacy, indicating that the additional information may cause confusion and would crowd the label. Others objected to the requirement that the prescription label be verified before the drug is dispensed at the telepharmacy site, stating that this requirement would fracture the pharmacist's workflow and processes.

One commenter indicated reservations and concerns about some provisions of the rules but expressed support for moving the rules forward at this time. The commenter asked the Board to continue to evaluate the rules and consider input for possible future amendments. The Board concurs with this recommendation and intends to revisit the comments and suggestions received regarding these rules. At this time, the Board determined not to make any changes to the rules as published under Notice. Many discussions with various stakeholder groups and interested parties culminated in the proposed rules. The Board would like to take some time, proceeding under these rules, to monitor and review the practices and processes that develop before considering amendments to Chapter 13.

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The adopted amendments are identical to the amendments published under Notice.

These amendments were approved during the June 28, 2017, meeting of the Board of Pharmacy.

After analysis and review of this rule making, the Board has been unable to determine whether the adoption of these amendments will have an impact on jobs or the net result of any possible impact. The establishment of telepharmacy sites where a pharmacy currently does not exist may create jobs for pharmacy technicians and also for verifying pharmacists. However, the establishment of a telepharmacy site in place of an existing pharmacy that intends to close, as a means of preserving the availability of pharmacy services in a community or area, may still result in the overall reduction in the number of jobs in that area.

These amendments are intended to implement Iowa Code sections 124.301, 147.107, 155A.3, 155A.6A, 155A.13, 155A.14, 155A.19, 155A.28, 155A.31, 155A.33, and 155A.41.

These amendments will become effective on September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 8.35(2) as follows:

8.35(2) Limited use pharmacy license. Limited use pharmacy license may be issued for nuclear pharmacy practice, correctional facility pharmacy practice, telepharmacy practice, and veterinary pharmacy practice. Applications for limited use pharmacy license for these and other limited use practice settings shall be determined on a case-by-case basis.

ITEM 2. Adopt the following new 657—Chapter 13:

CHAPTER 13
TELEPHARMACY PRACTICE

657—13.1(155A) Purpose and scope. The purpose of this chapter is to provide standards for the provision of telepharmacy services to patients. These rules provide for pharmaceutical care services at a telepharmacy site utilizing audiovisual technologies that link the telepharmacy site with a managing pharmacy and one or more verifying pharmacists. The telepharmacy site and the managing pharmacy shall be located within Iowa and shall maintain appropriate licensure by the board.

657—13.2(155A) Definitions. For purposes of this chapter, the following definitions shall apply:

“*Board*” means the board of pharmacy.

“*CSA*” or “*CSA registration*” means a registration issued pursuant to Iowa Code section 124.303 and 657—Chapter 10.

“*DEA*” means the Drug Enforcement Administration of the U.S. Department of Justice.

“*Managing pharmacy*” means a licensed pharmacy located in Iowa that oversees the activities of one or more telepharmacy sites.

“*Telepharmacy*” means the practice of pharmacy where pharmaceutical care services are provided using audiovisual technologies linking a telepharmacy site with the managing pharmacy.

“*Telepharmacy site*” means a licensed pharmacy that is operated by a managing pharmacy and staffed by one or more telepharmacy technicians where pharmaceutical care services, including the storage and dispensing of prescription drugs, drug utilization review, and patient counseling, are provided by a licensed pharmacist through the use of technology.

“*Verifying pharmacist*” means a remote Iowa-licensed pharmacist or pharmacists who perform any step in the prescription verification and dispensing process including but not limited to: verification of data entry; product selection, packaging, and labeling; drug utilization review; and patient counseling.

657—13.3(124,155A) Written agreement. The managing pharmacy and the telepharmacy site shall execute and maintain a current written agreement between the pharmacies. If there is no current written agreement between the pharmacies, the telepharmacy site shall immediately notify the board and shall discontinue operations as a telepharmacy site until a current written agreement between the managing pharmacy and the telepharmacy site is executed.

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13.3(1) Contents of agreement. The written agreement between the managing pharmacy and a telepharmacy site shall include, but may not be limited to, the following:

a. Staffing, to include telepharmacy technician staffing, verifying pharmacist staffing and availability, and on-site pharmacist staffing as needed.

b. Hours of operation of the telepharmacy site and hours of availability of pharmacists at the managing pharmacy.

c. Emergency contact information for the managing pharmacy and the telepharmacy site.

d. A complete description of the audiovisual technology to be utilized to link the managing pharmacy and the telepharmacy site.

e. A provision that, in the event that the telepharmacy technician is not available at the telepharmacy site, that a verifying pharmacist is not available, or that the audiovisual communication connection between the telepharmacy site and the managing pharmacy is not available, the telepharmacy site shall close pending the availability of the technician, the verifying pharmacist, and the communication link or pending the arrival at the telepharmacy site of a pharmacist to provide on-site pharmacy services.

f. Activities and services to be provided by the managing pharmacy at the telepharmacy site.

g. Identification of contact persons to receive, on behalf of the managing pharmacy and the telepharmacy site, notifications and official communications regarding the written agreement. Identification of contact persons shall include delivery addresses and preferred methods of delivery of the written communications required by this rule and any other communications affecting the written agreement between the managing pharmacy and the telepharmacy.

h. Pharmacy locations, other than the managing pharmacy, where verifying pharmacists may be based or located.

13.3(2) Termination of agreement. A managing pharmacy shall provide written notice to the board and to the telepharmacy site 90 days in advance of the managing pharmacy's intent to terminate the agreement between the telepharmacy site and the managing pharmacy. A telepharmacy site shall provide written notice to the board and to the managing pharmacy 90 days in advance of the telepharmacy site's intent to terminate the agreement between the managing pharmacy and the telepharmacy site.

a. New agreement. A new written agreement between a managing pharmacy and the telepharmacy site, including the filing of a new pharmacy license application identifying the new pharmacist in charge, shall be executed within the 90-day advance notification period.

b. No new agreement. If the telepharmacy site is unable to contract with a new managing pharmacy, the telepharmacy site shall, 30 days prior to the expiration of the 90-day advance notification period, implement the prior notification requirements for closing a telepharmacy site as provided in subrule 13.3(3). The telepharmacy site shall cease operations and close at the end of that 30-day closing notification period unless a new written agreement is executed.

13.3(3) Closing of telepharmacy site. A telepharmacy site that intends to close the telepharmacy site shall provide written notification to the managing pharmacy and the board as provided in subrule 13.3(2). In addition, the telepharmacy site shall provide written notification to the DEA and to patients and shall comply with all requirements for closing a pharmacy as provided in 657—subrule 8.35(7).

13.3(4) Closing of managing pharmacy. A managing pharmacy that intends to close the managing pharmacy shall provide written notification to the telepharmacy site and the board as provided in subrule 13.3(2). In addition, the managing pharmacy shall provide written notification to the DEA and to patients and shall comply with all requirements for closing a pharmacy as provided in 657—subrule 8.35(7). A telepharmacy site that has been managed by the closing pharmacy shall comply with the provisions of subrules 13.3(2) and 13.3(3), as applicable.

657—13.4(155A) Responsible parties. The responsibilities identified and assigned pursuant to rule 657—8.3(155A) shall be assigned, as appropriate, to the managing pharmacy and the telepharmacy site, by and through their respective owners or license holders, to the pharmacist in charge and to staff pharmacists, including verifying pharmacists. A telepharmacy technician shall share responsibility

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with the pharmacist in charge, the telepharmacy site, and the verifying pharmacist, as assigned in rule 657—8.3(155A), for all functions assigned to and performed by the telepharmacy technician.

657—13.5 to 13.7 Reserved.

657—13.8(124,155A) General requirements for telepharmacy site. The telepharmacy site shall maintain a pharmacy license issued by the board. If the telepharmacy site plans to dispense controlled substances, the telepharmacy site shall also maintain a CSA registration and a DEA registration.

13.8(1) Located in Iowa. A telepharmacy site shall be located within the state of Iowa.

13.8(2) Pharmacist in charge. The pharmacist in charge of the telepharmacy site shall be the pharmacist in charge of the managing pharmacy.

13.8(3) Security. A telepharmacy site shall employ methods to prevent unauthorized access to prescription drugs, devices, and pharmacy and patient records. Such methods may include an alarm system and shall include other security systems and methods as provided by these rules. Alarm systems and entry system locks should be disarmed when the telepharmacy site is staffed and open for business. Minimum security methods shall include:

a. Electronic keypad or other electronic entry system into the telepharmacy site or the pharmacy department that requires and records the unique identification of the individual accessing the pharmacy, including the date and time of access. Complete access records shall be maintained for a minimum of two years beyond the date of access.

b. Secure storage such as a safe.

c. Controlled access to computer records.

d. A continuous system of video surveillance and recording of the pharmacy department that includes maintenance of recordings for a minimum of 60 days following the date of the recording.

13.8(4) Telepharmacy site signage. In addition to the patient counseling sign required pursuant to subrule 13.8(5), one or more signs, prominently posted in every prescription pick-up area and clearly visible to the public, shall inform the public that the location is a telepharmacy site supervised by a pharmacist at a remote location. Signage shall include the name, location, and telephone number of the managing pharmacy. The telepharmacy site shall also prominently post the days and times that the telepharmacy is open for business.

13.8(5) Patient counseling. Patient counseling as required by rule 657—6.14(155A) shall be provided utilizing the audiovisual technology employed between the telepharmacy site and the managing pharmacy. Every telepharmacy site shall post in every prescription pickup area, in a manner clearly visible to patients, a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a telepharmacy site with the required signage.

13.8(6) Label requirements. In addition to the label requirements identified in 657—subrule 6.10(1), the label affixed to or on the dispensing container of any prescription drug or device dispensed by a telepharmacy site pursuant to a prescription drug order shall include, on the primary label or affixed by use of an auxiliary label, the following:

a. The name, telephone number, and address of the telepharmacy site;

b. The name and telephone number of the managing pharmacy.

13.8(7) Prohibited activities. In the physical absence of a pharmacist, the following activities are prohibited:

a. Practice of pharmacist-interns or pharmacy support persons at the telepharmacy site.

b. Advising patients regarding over-the-counter products unless that advice is communicated directly by a pharmacist to the patient.

c. Dispensing or delivering prescription medications packaged by a technician into patient med paks unless an on-site pharmacist has verified the drugs in the patient med paks.

d. Tech-check-tech practice.

e. Compounding, unless an on-site pharmacist has verified the accuracy and completeness of the compounded drug product.

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f. All judgmental activities identified in rule 657—3.23(155A) that a pharmacy technician is prohibited from performing in the practice of pharmacy.

13.8(8) Continuous quality improvement. A telepharmacy site shall implement and participate in a continuous quality improvement program pursuant to rule 657—8.26(155A).

13.8(9) Technology failure. If the audiovisual technology between the telepharmacy site and the managing pharmacy or the verifying pharmacist is not operational, no prescriptions shall be dispensed from the telepharmacy site to a patient unless a pharmacist is physically present at the telepharmacy site.

13.8(10) Perpetual controlled substances inventory. A telepharmacy site that dispenses controlled substances shall maintain a perpetual inventory record of those controlled substances.

a. The perpetual inventory record requirement shall apply to all controlled substances maintained and dispensed by the telepharmacy site and shall not be limited only to Schedule II controlled substances.

b. The perpetual inventory record format and other requirements provided in rule 657—10.33(124,155A) shall apply to the telepharmacy site's perpetual inventory record of controlled substances, with the following exceptions:

(1) The perpetual inventory record shall contain records for all controlled substances, not just Schedule II controlled substances, and

(2) Audit of the perpetual inventory record shall be completed and the physical and perpetual inventories shall be reconciled pursuant to the requirements of 657—subrule 10.33(4) each month as part of the inspection of the telepharmacy site.

657—13.9(155A) General requirements for managing pharmacy.

13.9(1) Distance to telepharmacy site. The managing pharmacy shall be located in Iowa and within a 200-mile radius of a telepharmacy site to ensure that the telepharmacy site is sufficiently supported by the managing pharmacy and that necessary personnel or supplies may be delivered to the telepharmacy site within a reasonable period of time of an identified need.

13.9(2) Emergency preparedness plan. A managing pharmacy shall develop and include in both the managing pharmacy's and the telepharmacy site's policies and procedures a plan for continuation of pharmaceutical services provided by the telepharmacy site in case of an emergency interruption of the telepharmacy site's services. The plan shall address the timely arrival at the telepharmacy site of necessary personnel or the delivery to the telepharmacy site of necessary supplies within a reasonable period of time following the identification of an emergency need. The plan may provide for alternate methods of continuation of the services of the telepharmacy site including, but not limited to, personal delivery of patient prescription medications from an alternate pharmacy location or on-site pharmacist staffing at the telepharmacy site.

13.9(3) Pharmacist in charge. The pharmacist in charge of the managing pharmacy shall be the pharmacist in charge of the telepharmacy site.

13.9(4) Adequate audiovisual connection. The pharmacist in charge shall ensure adequate audiovisual connection with the telepharmacy site during all periods when the telepharmacy site is open for business including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

13.9(5) Monthly inspection. The pharmacist in charge or delegate pharmacist shall be responsible for performing a monthly inspection of the telepharmacy site. Inspection reports shall be signed by the individual pharmacist who performed the inspection. Inspection records and reports shall be maintained at the telepharmacy site for two years following the date of the inspection. A copy of the inspection report shall be provided to and maintained at the managing pharmacy. The monthly inspection shall include, but may not be limited to, the following:

a. Audit and reconciliation of controlled substances perpetual and physical inventories.

b. Audit of electronic entry system and records.

c. Verification that the video recording system is functioning properly and that the recordings are maintained and available for at least 60 days past the date of the recording.

d. Compilation of a record of the number of prescriptions filled, the number of on-site pharmacist hours, and the number of hours the pharmacy site was open for business during the preceding month.

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- e.* Review of written policies and procedures and verification of compliance with those policies and procedures.
- f.* Ensuring compliance with and review of records in the continuous quality improvement program, following up with responsible personnel to address issues identified by incident reports to prevent future incidents.
- g.* Review of records of the receipt and disbursement of prescription drugs, including controlled substances, to ensure compliance with record-keeping requirements.
- h.* Inspection of drug supplies and storage areas to ensure removal and quarantine of outdated drugs.
- i.* Inspection of stock drug supplies and storage areas to ensure drugs are maintained in a manner to prevent diversion and maintain the integrity of the drugs, verifying that the temperatures of storage areas are appropriate for the stored drugs and equipment.
- j.* Inspection of pharmacy and storage areas and shelves to ensure areas and shelves are clean and free of pests and other contaminants.

13.9(6) *On-site pharmacist staffing.* In an effort to promote public health, the telepharmacy site shall be staffed by a pharmacist for at least 16 hours per month. While on site, the pharmacist shall make available to the community general health care services, which may include, but not necessarily be limited to, immunizations, medication therapy management, or health screenings, as deemed necessary and appropriate by the pharmacist in charge and as provided by policies and procedures.

a. If a pharmacist will be available at the telepharmacy site to provide in-person patient services, a consistent schedule of the pharmacist's availability shall be established and published.

b. Signage identifying the days and times when a pharmacist is on site and available to patients shall be conspicuously posted at the telepharmacy site and may be published by other means, as deemed appropriate.

c. Notice that the pharmacist will not be present at the telepharmacy site during any routinely scheduled and posted on-site availability shall be provided to the public in advance of the absence except as provided in the emergency preparedness plan.

d. If the average number of prescriptions dispensed per day by the telepharmacy site exceeds 150 prescriptions, the telepharmacy site shall provide on-site pharmacist staffing 100 percent of the time the pharmacy is open for business and shall, within ten business days, apply to the board for licensure as a general pharmacy. The average number of prescriptions dispensed per day shall be determined by averaging the number of prescriptions dispensed per day over the previous 90-day period.

657—13.10(155A) General requirements for verifying pharmacist. A verifying pharmacist shall maintain a current and active license to practice pharmacy in Iowa.

13.10(1) *Location of verifying pharmacist.* The verifying pharmacist who is performing patient counseling shall be physically located within the managing pharmacy or another pharmacy licensed to operate a pharmacy in Iowa.

13.10(2) *Adequate audiovisual connection.* The verifying pharmacist shall ensure adequate audiovisual connection with the telepharmacy site during all periods when the pharmacist is responsible for verifying telepharmacy site activities and practices, including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

13.10(3) *Verifying pharmacist training.* A verifying pharmacist shall be adequately trained on the use of the technology to ensure accurate verification and patient counseling and shall review and understand the policies and procedures of the managing pharmacy and the telepharmacy site.

13.10(4) *Patient refusal of counseling.* If a patient or patient's caregiver refuses patient counseling, the refusal shall be directly communicated by the patient or patient's caregiver to the pharmacist through audiovisual communication. A technician may not accept and communicate a refusal of patient counseling from the patient or patient's caregiver to the pharmacist.

13.10(5) *Reference library.* A verifying pharmacist shall have access to all required references applicable to the telepharmacy services provided at the telepharmacy site.

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657—13.11(155A) General requirements for telepharmacy technician. A telepharmacy technician shall maintain current national certification and registration in good standing with the board as a certified pharmacy technician.

13.11(1) Practice experience. Before practicing in a telepharmacy site, a telepharmacy technician shall have completed a minimum of 2,000 hours of practice experience as a certified pharmacy technician, at least 1,000 hours of which shall be practicing in an Iowa-licensed pharmacy and 160 hours of which shall be practicing in a managing pharmacy.

13.11(2) Training. In addition to training required of all pharmacy technicians, a telepharmacy technician shall complete the following minimum training requirements before practicing in a telepharmacy site. Records of telepharmacy technician training shall be documented and maintained by the telepharmacy site.

- a. Review and understanding of the policies and procedures of the managing pharmacy.
- b. Review and understanding of the policies and procedures of the telepharmacy site.
- c. Review and understanding of these rules for telepharmacy practice.
- d. Review and understanding of pharmacy technician rules, 657—Chapter 3.
- e. Understanding of the operation of the audiovisual technologies to be utilized at both pharmacies.
- f. Training at the telepharmacy site under the direct supervision of an on-site verifying pharmacist. Training shall include operation and use of the audiovisual technology and other means of communication between the telepharmacy site and the managing pharmacy and all daily operations from unlocking and opening the telepharmacy site to closing and locking the telepharmacy site at the end of the business day. If the telepharmacy site is protected by one or more alarm systems, training shall include how to disarm and engage the alarm system or systems.

13.11(3) Continuing education. Beginning with the first full two-year continuing education period for renewal of the technician's national pharmacy technician certification after beginning practice as a telepharmacy technician, and for each subsequent renewal of national certification for as long as the technician continues to practice as a telepharmacy technician, the technician shall complete two hours of continuing education in each of the following activities. These continuing education requirements shall not be in addition to the total continuing education credits required to maintain national certification.

- a. Patient safety/medication errors.
- b. Pharmacy law.

13.11(4) Identification. The telepharmacy technician shall, at all times when the technician is practicing at the telepharmacy site and the telepharmacy site is open for business, wear a name badge or tag identifying the technician. The badge or tag shall include, at a minimum, the technician's first name and title. The name badge or tag shall be so designed and worn that the technician's name and title are clearly visible to the public at all times.

13.11(5) Adequate audiovisual connection. The telepharmacy technician shall ensure adequate audiovisual connection with the managing pharmacy during all periods when the telepharmacy site is open for business, including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

657—13.12 to 13.15 Reserved.

657—13.16(124,155A) Telepharmacy site—initial application.

13.16(1) License application. A telepharmacy site shall complete and submit to the board a limited use/telepharmacy license application and fee as provided in rule 657—8.35(155A). In addition to the application and fee, the telepharmacy site shall include the additional information identified in this rule.

13.16(2) CSA registration application. If controlled substances will be dispensed from the telepharmacy site, the telepharmacy site shall complete and submit, with the limited use/telepharmacy license application and fee, the CSA registration application and fee as provided in rule 657—10.1(124).

13.16(3) Identification of managing pharmacy. The telepharmacy site application shall include identification of the managing pharmacy, including pharmacy name, license number, address, telephone number, pharmacist in charge, and a statement from the managing pharmacy or pharmacist in charge

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indicating that the managing pharmacy has executed a written agreement to provide the required services and oversight to the telepharmacy site.

13.16(4) *Distance to nearest general pharmacy.* The telepharmacy site application shall identify the nearest licensed pharmacy that dispenses prescription drugs to outpatients and shall provide evidence identifying the total driving distance between the proposed telepharmacy site and the nearest currently licensed general pharmacy.

a. If the distance between the proposed telepharmacy site and the nearest currently licensed general pharmacy is less than ten miles, the telepharmacy site shall submit a request for waiver of the distance requirement. The process and requirements for a request for waiver are identified in subrule 13.16(8).

b. The distance requirement shall not apply under any of the following circumstances:

(1) The telepharmacy site was approved by the board and operating as a telepharmacy site prior to July 1, 2016.

(2) The proposed telepharmacy site is located within a hospital campus, and services will be limited to inpatient dispensing.

(3) The proposed telepharmacy site is located on property owned, operated, or leased by the state.

13.16(5) *Written agreement.* The telepharmacy site application shall include the written agreement between the telepharmacy site and the managing pharmacy as described in subrule 13.3(1).

13.16(6) *Key personnel.* The telepharmacy site application shall identify key personnel including the pharmacist in charge of the managing pharmacy and the telepharmacy site and the telepharmacy technician or technicians at the telepharmacy site. Identification shall include the names, the license or registration numbers, and the titles of the key personnel. Telepharmacy technician identification shall also include a copy of the telepharmacy technician's current national certification or other verification of the telepharmacy technician's current national certification.

13.16(7) *Audiovisual technology.* A description of the audiovisual technology system to be used to link the managing pharmacy and the telepharmacy site, including built-in safeguards relating to verification of the accuracy of the dispensing processes. Safeguards shall include but may not be limited to:

a. Requiring a verifying pharmacist to review and compare the electronic image of any new prescription with the data entry record of the prescription prior to authorizing the telepharmacy site's system to print a prescription label and prior to the telepharmacy technician's filling of the prescription at the telepharmacy site.

b. Requiring the technician to use barcode technology at the telepharmacy site to verify the accuracy of the drug to be dispensed.

c. Requiring remote visual confirmation by a verifying pharmacist of the drug stock bottle and the drug to be dispensed prior to the dispensing of the prescription at the telepharmacy site.

d. Ensuring that the telepharmacy site's system prevents a prescription from being sold and delivered to a patient before the verifying pharmacist has performed a final verification of the accuracy of the prescription and released the prescription for sale and delivery at the telepharmacy site.

13.16(8) *Request for distance waiver.* The board shall consider a request for waiver of the distance requirement between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients if the petitioner can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and that there exist compelling circumstances that justify waiving the distance requirement.

a. The request for waiver shall be prepared and shall include the elements of a request for waiver or variance identified in 657—Chapter 34.

b. In addition to the requirements of 657—Chapter 34, the request for waiver shall include evidence and specific information regarding each of the following, if applicable. If an item identified below does not apply to the proposed telepharmacy site, the request for waiver shall specifically state that the item does not apply.

(1) That the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients is open for business for limited hours or fewer hours than the proposed telepharmacy site.

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(2) That the proposed telepharmacy site intends to provide services not available from the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients.

(3) That access to the nearest currently licensed general pharmacy that dispenses prescription drugs to outpatients is limited. A description of how the proposed telepharmacy site will improve patient access to pharmacy services shall be included.

(4) That limited access to pharmacy services is affecting patient safety.

(5) That there are transportation barriers to services from the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients.

(6) That the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients is closing.

(7) That the proposed telepharmacy site is located in an area of the state where there is limited access to pharmacy services.

c. The board shall consider a request for waiver of the distance requirement during any open session of a meeting of the board. One or more representatives of the parties to the waiver request, including representatives of the proposed telepharmacy site, the managing pharmacy, and the nearest currently licensed general pharmacy, shall be invited and encouraged to attend the meeting at which the waiver request is scheduled for consideration to be available to respond to any questions.

d. The board's decision to grant or deny the request for waiver of the distance requirement shall be a proposed decision and shall be reviewed by the director of the department of public health.

(1) The director shall have the power to approve, modify, or veto the board's proposed decision regarding the waiver request.

(2) The director's decision on a waiver request shall be considered final agency action.

(3) The director's decision (final agency action) shall be subject to judicial review under Iowa Code chapter 17A.

657—13.17(124,155A) Changes to telepharmacy site or managing pharmacy. Except as specifically provided by these rules, a change to a telepharmacy site shall require compliance with the licensure and notification requirements of the specific type of change identified in 657—subrules 8.35(6) and 8.35(7). A change affecting the CSA registration shall comply with the appropriate requirements of rule 657—10.11(124).

13.17(1) Change of pharmacist in charge. A change of pharmacist in charge shall require submission of a pharmacy license application for the managing pharmacy and the telepharmacy site as provided by 657—subrule 8.35(6).

13.17(2) Closing or selling of pharmacy. A telepharmacy site or managing pharmacy that intends to close or sell the pharmacy practice shall comply with all requirements for closing or selling a pharmacy found at 657—subrules 8.35(6) and 8.35(7) regarding ownership change and closing a pharmacy, including all advance notification requirements. A purchaser of a telepharmacy site shall complete and submit applications and supporting information as provided in rule 657—13.16(124,155A). A closing pharmacy shall also comply with the requirements of subrule 13.3(3) or 13.3(4), as appropriate.

13.17(3) Location change. A telepharmacy site that intends to move to and to provide telepharmacy services from a new location that is outside the community wherein the telepharmacy site has been located shall comply with the requirements of subrule 13.17(2) for closing a pharmacy and shall submit applications and supporting information as provided in rule 657—13.16(124,155A). A managing pharmacy that intends to move to a new location shall comply with the requirements of 657—subrules 8.35(5), 8.35(6), and 8.35(7), as appropriate.

657—13.18(155A) Opening of traditional pharmacy. If a pharmacy licensed as a general, hospital, or limited use pharmacy opens for business within ten miles of an existing and operating telepharmacy site, the telepharmacy site may continue to operate as a telepharmacy site and shall not be required to close due to the proximity of the new pharmacy.

657—13.19 and 13.20 Reserved.

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657—13.21(124,155A) Policies and procedures. In addition to policies and procedures required for the specific services provided and identified in other chapters of board rules, both the managing pharmacy and the telepharmacy site shall develop, implement, and adhere to written policies and procedures for the operation and management of the specific pharmacy's operations.

13.21(1) Minimum requirements. Policies and procedures shall define the frequency of review, and written documentation of review by the pharmacist in charge shall be maintained. Policies and procedures shall address, at a minimum, the following:

a. Procedures ensuring that a record is made and retained identifying the pharmacist who verified the accuracy of the prescription including the accuracy of the data entry, the selection of the correct drug, the accuracy of the label affixed to the prescription container, and the appropriateness of the prescription container.

b. Procedures ensuring that a record is made and retained identifying the pharmacist who performed the drug utilization review as provided by rule 657—8.21(155A).

c. Procedures ensuring that a record is made and retained identifying the pharmacist who provided counseling to the patient or the patient's caregiver pursuant to rule 657—6.14(155A).

d. Procedures ensuring that a record is made and retained identifying the technician who filled the prescription.

e. Procedures ensuring adequate security to prevent unauthorized access to prescription drugs and devices and to confidential records.

f. Procedures regarding procurement of drugs and devices, including who is authorized to order or receive drugs and devices, from whom drugs and devices may be ordered and received, and the required method for documentation of the receipt of drugs and devices.

g. Procedures ensuring appropriate and safe storage of drugs at the telepharmacy site, including appropriate temperature controls.

h. Procedures identifying the elements of a monthly inspection of the telepharmacy site by the pharmacist in charge or designated pharmacist, including requirements for documentation and retention of the results of each inspection.

i. Procedures for the temporary quarantine of out-of-date and adulterated drugs from dispensing stock and the subsequent documented disposal of those drugs.

j. Procedures and documentation required in the case of return to the telepharmacy of a drug or device.

k. Procedures for drug and device recalls.

13.21(2) Availability. Policies and procedures shall be available for inspection and copying by the board or the board's representative at the location to which the policies and procedures apply.

657—13.22(155A) Reports to the board. The board may periodically request information regarding the services provided by a telepharmacy site.

13.22(1) Timeliness. A telepharmacy site shall complete and submit the requested information in a timely manner as requested by the board. The board shall allow a reasonable amount of time for a telepharmacy site to complete and submit the requested information.

13.22(2) Information to include. Information requested may include, but may not necessarily be limited to, the following:

a. The number of prescriptions dispensed from the telepharmacy site over a specified period of time.

b. The number of hours a pharmacist was physically present at the telepharmacy site over a specified period of time.

c. The number of hours the telepharmacy site was open for business over a specified period of time.

657—13.23(124,155A) Records. Every inventory or other record required to be kept under Iowa Code chapters 124 and 155A or rules of the board shall be kept by the telepharmacy site and be available for inspection and copying by the board or its representative for at least two years from the date of the

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inventory or record except as specifically identified by law or rule. Controlled substances records shall be maintained in a readily retrievable manner in accordance with federal requirements and 657—Chapter 10.

13.23(1) *Dispensing record.* As provided in rule 657—13.21(124,155A), a written or electronic record identifying the pharmacist who verified the prescription, the pharmacist who provided counseling to the patient or the patient’s caregiver, and the pharmacy technician who filled the prescription shall be maintained for every prescription fill dispensed by the telepharmacy site.

13.23(2) *On-site pharmacist staffing.* A written or electronic record of the number of prescriptions filled, the number of on-site pharmacist hours, and the number of hours the telepharmacy site was open for business each month shall be maintained by the telepharmacy site.

13.23(3) *Pharmacy access.* Records identifying, by unique identification of the individual accessing the pharmacy department, including the date and time of access, shall be maintained for two years beyond the date of access.

13.23(4) *Monthly inspection.* Reports of the monthly inspection of the telepharmacy site shall be maintained at the telepharmacy site for two years following the date of the inspection. A copy of the inspection report shall be provided to and maintained at the managing pharmacy for two years following the date of the inspection.

These rules are intended to implement Iowa Code sections 124.301, 147.107, 155A.3, 155A.6A, 155A.13, 155A.14, 155A.19, 155A.28, 155A.31, 155A.33, and 155A.41.

[Filed 7/7/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3237C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13A, the Board of Pharmacy hereby rescinds Chapter 19, “Nonresident Pharmacy Practice,” Iowa Administrative Code, and adopts a new chapter with the same title.

This rule making incorporates an administrative review pursuant to Iowa Code section 17A.7(2) as well as promulgates rules in response to 2016 Iowa Acts, Senate File 453, enacted by the General Assembly. The adopted rules identify application requirements, including minimum standards for inspections of nonresident pharmacies seeking licensure in Iowa, and application and registration requirements for the pharmacist in charge of a nonresident pharmacy. The new rules provide directives for nonresident pharmacies subject to disciplinary action or criminal convictions to provide timely notice to the Board as well as provide further explanation of the disciplinary authority of the Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3039C** on April 26, 2017.

The Board received one question in response to the Notice, asking for clarification on the licensure requirements of out-of-state pharmacists providing nondispensing pharmaceutical care services to residents in Iowa. There were no comments received specific to this rule making, and the rules are identical to those published under Notice.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

This rule making was approved at the June 28, 2017, meeting of the Board of Pharmacy.

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

These rules are intended to implement Iowa Code section 155A.13A as amended by 2016 Iowa Acts, Senate File 453.

These rules will become effective on September 6, 2017.

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The following amendment is adopted.

Rescind 657—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
NONRESIDENT PHARMACY PRACTICE

657—19.1(155A) Definitions.

“*Board*” means the Iowa board of pharmacy.

“*FDA*” means the United States Food and Drug Administration.

“*Home state*” means the state in which a pharmacy is located.

“*Nonresident pharmacy*” means a pharmacy, including an Internet-based pharmacy, located outside the state of Iowa that delivers, dispenses, or distributes, by any method, prescription drugs, devices, or pharmacy services to an ultimate user physically located in this state.

“*Nonresident pharmacy license*” means a pharmacy license issued to a nonresident pharmacy.

“*Pharmacy services*” includes, but is not limited to, nonproduct services provided by an Iowa-licensed pharmacist or a pharmacist practicing at an Iowa-licensed nonresident pharmacy, such as patient counseling and drug information, pharmaceutical care, and assessment of health risks.

“*Registered pharmacist in charge*” means the pharmacist in charge at the nonresident pharmacy who is registered with the board and is legally responsible for the operation of the nonresident pharmacy with respect to the provision of prescription drugs, devices, or pharmacy services to patients located in Iowa.

657—19.2(155A) Nonresident pharmacy license. A nonresident pharmacy shall apply for and obtain, pursuant to provisions of rule 657—8.35(155A), a nonresident pharmacy license from the board prior to providing prescription drugs, devices, or pharmacy services to an ultimate user in this state. All requirements of rule 657—8.35(155A) regarding licensure are applicable to nonresident pharmacies unless otherwise provided in this rule. Any pharmacy that dispenses controlled substances to Iowa residents shall also register pursuant to 657—Chapter 10.

19.2(1) Inspection requirements. In lieu of the inspection requirement identified in 657—subrule 8.35(5), a nonresident pharmacy submitting any application for licensure, except when related to a change in location, shall submit with its application and fee an inspection report that satisfies the following requirements:

a. Less than two years have passed since the date of the inspection and the inspection report is the most recent inspection report available that satisfies the requirements of these rules.

b. The inspection occurred while the pharmacy was in operation. An inspection prior to the initial opening of the pharmacy shall not satisfy this requirement.

c. The inspection report addresses all aspects of the pharmacy’s business that will be utilized in Iowa.

d. The inspection was performed by or on behalf of the home state licensing authority, if available.

19.2(2) Qualified inspector. If the home state licensing authority has not conducted an inspection satisfying the inspection requirements, the nonresident pharmacy shall submit an inspection report issued by one of the following:

a. The verified pharmacy program offered by the National Association of Boards of Pharmacy®.

b. Another qualified entity if the entity is preapproved by the board.

c. An authorized agent of the board. The board may recover from a nonresident pharmacy, prior to the issuance of a nonresident pharmacy license, the costs associated with conducting an inspection.

19.2(3) Corrective action. The nonresident pharmacy shall submit evidence of corrective action taken to satisfy any deficiency identified in the inspection report and of compliance with all legal directives of the home state licensing authority.

19.2(4) Nonresident pharmacy license changes. A nonresident pharmacy shall submit a completed application and fee pursuant to 657—subrule 8.35(6) except as provided in this rule.

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a. Name. A change of the pharmacy name which is provided to patients shall require submission of a pharmacy license application and fee within ten days after issuance by the home state regulatory authority of a license bearing the new name.

b. Location. A change of pharmacy location shall require submission of a pharmacy license application, with the exception of the inspection requirements pursuant to subrule 19.2(1), and fee within ten days after issuance by the home state regulatory authority of a license bearing the new address.

c. Pharmacist in charge. A change in the pharmacist in charge shall require submission of a pharmacy license application and fee within ten days of the identification of a permanent pharmacist in charge pursuant to 657—subrule 8.35(6). If a temporary pharmacist in charge is identified, written notification shall be provided to the board pursuant to 657—paragraph 8.35(6)“c.” The temporary pharmacist in charge shall not be required to be registered pursuant to rule 657—19.3(155A).

19.2(5) Closing pharmacy or discontinuation of services. If a nonresident pharmacy is closing, the pharmacy shall comply with the requirements in 657—subrule 8.35(7). If a nonresident pharmacy is discontinuing provision of pharmacy services to Iowa, but not closing, the pharmacy shall comply with the requirements in the introductory paragraph of 657—subrule 8.35(7) as it relates to transferring patient records to another Iowa-licensed pharmacy and 657—paragraphs 8.35(7)“b” and “d.” The notice requirements of this rule shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster. The nonresident pharmacy shall return to the board the nonresident pharmacy license certificate and, if registered, the Iowa controlled substances Act registration certificate within ten days following the closure or discontinuation of service.

657—19.3(155A) Registered pharmacist in charge. The permanent pharmacist in charge of the nonresident pharmacy shall be designated as such on the nonresident pharmacy license application. Beginning January 1, 2018, the pharmacist in charge shall be registered with the board. The pharmacist in charge shall submit a completed application and a registration fee of \$75. The registration shall expire on December 31 following the date of issuance of the registration. An initial registration issued between November 1 and December 31 shall not require renewal until the following calendar year.

19.3(1) Registered pharmacist in charge application. The pharmacist in charge of an Iowa-licensed nonresident pharmacy who is not currently actively licensed to practice pharmacy in Iowa shall be registered with the board. The pharmacist in charge shall submit to the board an application that includes the following information:

- a.* The pharmacist’s name and contact information.
- b.* The pharmacist’s license or registration number in the state in which the nonresident pharmacy is located.
- c.* The pharmacist’s current place of employment.
- d.* Verification that the pharmacist’s license in the state in which the nonresident pharmacy is located is current and in good standing.
- e.* Documentation that the applicant has successfully completed the most current educational training module approved by the board regarding the board’s rules as they relate to nonresident pharmacy practice.
- f.* Criminal and disciplinary history information.

19.3(2) Registration changes and voluntary cancellation. A registered pharmacist in charge of a nonresident pharmacy shall notify the board in writing within ten days of any change of information included on the registration application, including the pharmacist’s name, contact information, home state license or registration information or status, and place of employment. If a registered pharmacist in charge ceases to be the pharmacist in charge of an Iowa-licensed nonresident pharmacy, the pharmacist may voluntarily request that the registration be canceled and the pharmacist shall not be subject to the inactive registration and reactivation procedure as identified in paragraph 19.3(3)“b.”

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19.3(3) Registration renewal. The registration of a pharmacist in charge at a nonresident pharmacy shall be renewed or canceled prior to January 1 of each year. The pharmacist in charge shall submit a completed application and fee as required in this rule.

a. Delinquent registration grace period. If the registration of a pharmacist in charge has not been renewed or canceled prior to expiration, but the pharmacist is in the process of renewing the registration, the registration becomes delinquent on January 1. A pharmacist in charge who submits a completed registration renewal application, application fee, and late penalty fee of \$75 postmarked or delivered to the board office by January 31 shall not be subject to disciplinary action for continuing to serve as pharmacist in charge without a current registration in the month of January.

b. Delinquent license reactivation beyond grace period. If the registration of a pharmacist in charge has not been renewed prior to the expiration of the one-month grace period identified in paragraph 19.3(3)“a,” the nonresident pharmacy may not continue to provide services to Iowa patients. A nonresident pharmacy that continues to provide services to Iowa patients without a currently registered pharmacist in charge may be subject to disciplinary sanctions. A pharmacist in charge without a current registration may apply for reactivation by submitting a registration application for reactivation and a \$300 reactivation fee. As part of the reactivation application, the nonresident pharmacy shall disclose the services, if any, that were provided to Iowa patients while the registration of the pharmacist in charge was delinquent.

657—19.4(124,155A) Applicability of board rules. A nonresident pharmacy shall comply with all requirements of this chapter, 657—Chapter 8, and any other board rules relating to the services that are provided by the pharmacy to patients in Iowa.

19.4(1) Type of pharmacy practice. A nonresident pharmacy, based on the principal type of pharmacy practice, shall comply with board rules as follows:

a. A “general pharmacy” as described in rule 657—6.1(155A) shall comply with all requirements of 657—Chapter 6.

b. A “hospital pharmacy” as described in rule 657—7.1(155A), excepting licensure pursuant to Iowa Code chapter 135B, shall comply with all requirements of 657—Chapter 7.

c. A “limited use pharmacy” as described in 657—subrule 8.35(2) shall comply with all requirements of the limited use pharmacy practice.

d. An “outsourcing facility” as described in rule 657—41.2(155A) shall comply with all requirements of 657—Chapters 41 and 20.

19.4(2) Controlled substances. A nonresident pharmacy providing prescription drugs identified as controlled substances under Iowa Code chapter 124 shall register with the board and comply with all requirements of 657—Chapter 10.

19.4(3) Compounding. A nonresident pharmacy engaged in the compounding of drug products as defined in rule 657—20.2(124,126,155A) shall comply with all requirements of 657—Chapter 20.

19.4(4) Long-term care services. A nonresident pharmacy providing services to Iowa patients in a long-term care facility as defined in 657—Chapter 23 shall comply with all requirements of 657—Chapters 22 and 23.

19.4(5) Electronic data. A nonresident pharmacy utilizing any electronic data processing or transmission devices or services shall comply with all requirements of 657—Chapter 21.

657—19.5 and 19.6 Reserved.

657—19.7(155A) Confidential data. Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure patient confidentiality and to protect patient identity and patient-specific information from inappropriate or nonessential access, use, or distribution pursuant to the requirements of rule 657—8.16(124,155A).

657—19.8(124,155A) Storage and shipment of drugs and devices. Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure compliance with rules

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657—8.7(155A) and 657—8.15(155A). Policies and procedures shall provide for the shipment of controlled substances via a secure and traceable method, and all records of such shipment and delivery to Iowa patients shall be maintained for a minimum of two years from the date of delivery.

657—19.9(155A) Patient record system, prospective drug use review, and patient counseling.

19.9(1) Patient record system. A patient record system shall be maintained pursuant to rule 657—6.13(155A) for Iowa patients for whom prescription drug orders are dispensed.

19.9(2) Prospective drug use review. A pharmacist shall, pursuant to the requirements of rule 657—8.21(155A), review the patient record and each prescription drug order before dispensing.

19.9(3) Patient counseling. Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure that Iowa patients receive appropriate counseling pursuant to the requirements of rule 657—6.14(155A).

657—19.10(155A) Reporting discipline and criminal convictions. A nonresident pharmacy or registered pharmacist in charge shall provide notice to the board of any discipline imposed by any licensing authority on any license or registration held by the pharmacy or pharmacist in charge no later than 30 days after the final action. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. A nonresident pharmacy or pharmacist in charge shall provide written notice to the board of any criminal conviction of the pharmacy, of any pharmacy owner, or of the pharmacist in charge that is related to prescription drugs or related to the operation of the pharmacy no later than 30 days after the conviction. The term “criminal conviction” includes instances when the judgment of conviction or sentence is deferred.

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

1. Any violation of the Federal Food, Drug, and Cosmetic Act or federal regulations promulgated under the Act. A warning letter issued by the FDA shall be conclusive evidence of a violation.

2. Any conviction of a crime related to prescription drugs or the practice of pharmacy committed by the nonresident pharmacy, pharmacist in charge, or individual owner, or if the pharmacy is an association, joint stock company, partnership, or corporation, by any managing officer.

3. Refusal of access to the pharmacy or pharmacy records to an agent of the board for the purpose of conducting an inspection or investigation.

4. Employing or continuing to employ a pharmacist in charge without a current and active registration pursuant to rule 657—19.3(155A).

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

These rules are intended to implement Iowa Code sections 124.301, 124.306, 155A.13, 155A.13A, 155A.13C, 155A.19, and 155A.35.

[Filed 7/7/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3238C**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13C, the Board of Pharmacy hereby amends Chapter 20, "Compounding Practices," and adopts new Chapter 41, "Outsourcing Facilities," Iowa Administrative Code.

These amendments implement the changes made to Iowa Code section 155A.13C in 2016 Iowa Acts, Senate File 453, enacted by the General Assembly, which identified as a specific license category an outsourcing facility and authorized the Board to promulgate rules for such licensure and activity. The amendments add to various rules in Chapter 20 references to Chapter 41 for outsourcing facilities. The amendments also introduce language, consistent with federal draft guidance, regarding criteria for the Board to consider when determining if a compounded drug preparation is essentially a copy of an approved drug. Compounding of a drug that is essentially a copy of an approved drug is a violation of federal regulations.

Chapter 41 establishes the requirements for licensure of outsourcing facilities and includes requirements relating to operations of an outsourcing facility, disclosure of inspection information including identification of determined deficiencies and the actions taken to cure those deficiencies, and disclosure of administrative and criminal actions taken against the facility and primary facility personnel.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3038C** on April 26, 2017.

The Board received one comment related to the rule regarding criteria used by the Board when determining if a compounded drug preparation is essentially a copy of an approved drug. The federal guidance upon which the language was based was, at the time of submission of the Notice, draft guidance and not yet finalized. The commenter expressed disagreement with the federal draft guidance. The Board considered the concern and recognized that future amendments could be made if the final federal guidance provides significant changes to the criteria.

These amendments are identical to those published under Notice.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

The Pharmacy Board adopted these amendments during its regularly scheduled meeting on June 28, 2017.

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

These amendments are intended to implement Iowa Code sections 124.301, 155A.13, and 155A.13C.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 657—20.1(124,126,155A) as follows:

657—20.1(124,126,155A) Purpose and scope. The requirements of this chapter apply to compounded preparations that are dispensed, distributed, or administered to an ultimate user in the state of Iowa, regardless of the location of the pharmacy or outsourcing facility where the preparation was compounded. This chapter applies to compounded preparations intended for humans and animals. In addition to the requirements in this chapter, all pharmacies and outsourcing facilities engaged in compounding shall comply with all applicable federal laws and regulations governing compounding and all applicable state laws, rules and regulations governing the practice of pharmacy. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter. The requirements of 657—Chapter 16 apply to the compounding of radiopharmaceuticals. The requirements of 657—Chapter 41 apply to outsourcing facilities.

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ITEM 2. Amend rule **657—20.2(124,126,155A)**, definition of “Outsourcing facility,” as follows:

“Outsourcing facility” or “facility” means a any compounding facility that is located at a single geographic location and has registered with the FDA as an outsourcing facility in accordance with Section 503B of the Federal Food, Drug, and Cosmetic Act, as defined in 21 U.S.C. Section 353b, that distributes sterile compounded human drug products without a patient-specific prescription to an authorized agent or practitioner in this state.

ITEM 3. Amend rule 657—20.5(126,155A) as follows:

657—20.5(126,155A) Delayed compliance. A pharmacy that is unable to meet the requirements for full compliance with these rules and with USP Chapter 795 or USP Chapter 797 by May 18, 2016, shall, prior to that date, request and obtain from the board a waiver of the specific requirement or requirements that the pharmacy is unable to meet. A pharmacy that cannot meet the requirements for full compliance with these rules, including applicable USP chapters, and that has not obtained from the board a waiver of the specific requirement or requirements shall not engage in compounding until the pharmacy is in full compliance with all requirements or the board has approved a waiver of the specific requirement or requirements.

ITEM 4. Amend rule 657—20.6(126,155A) as follows:

657—20.6(126,155A) Compounding standards for outsourcing facilities. An FDA-registered outsourcing facility shall be properly licensed in Iowa pursuant to 657—Chapter 41 and shall follow the FDA’s current good manufacturing practices (cGMPs) for outsourcing facilities when compounding preparations for hospitals, practitioners, or patients in the state of use in Iowa.

ITEM 5. Amend rule 657—20.11(126,155A) as follows:

657—20.11(126,155A) Prohibition on resale of compounded preparations. The sale of compounded preparations to other pharmacies, prescribers, or facilities entities, except as explicitly authorized by this chapter, is considered manufacturing.

ITEM 6. Adopt the following **new** subrules 20.12(1) and 20.12(2):

20.12(1) Essentially a copy. The board may consider the existence of the following factors as an indication that a compounded preparation is essentially a copy of an approved drug:

a. The compounded preparation has the same active pharmaceutical ingredient(s) as the commercially available drug product;

b. The active pharmaceutical ingredient(s) has the same, similar, or an easily substitutable dosage strength; and

c. The commercially available drug product can be used by the same route of administration as prescribed for the compounded preparation.

20.12(2) Clinically significant difference. The prescription for a compounded preparation that is essentially a copy of an approved drug shall clearly indicate the relevant change and the significant clinical difference produced for the patient. A prescription that identifies only a patient name and compounded preparation formulation is insufficient documentation for a pharmacy or outsourcing facility to rely upon to conclude that the prescriber made a determination regarding a clinically significant difference.

ITEM 7. Amend rule 657—20.15(124,126,155A) as follows:

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

20.15(1) Human compounded preparations. Only an FDA-registered outsourcing facility properly licensed in Iowa pursuant to 657—Chapter 41 may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

20.15(2) Veterinary compounded preparations. Veterinary compounded preparations may be sold to a practitioner for office use if the preparations are compounded by an Iowa-licensed pharmacy or

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outsourcing facility and sold directly to the practitioner by the ~~compounding~~ pharmacy or outsourcing facility.

20.15(3) and **20.15(4)** No change.

ITEM 8. Amend subrule 20.16(1) as follows:

20.16(1) *By an FDA-registered outsourcing facility.* Only an FDA-registered outsourcing facility properly licensed in Iowa pursuant to 657—Chapter 41 may distribute human compounded preparations to a hospital or hospital pharmacy in the absence of a patient-specific prescription. The compounded preparation shall be labeled in compliance with subrule 20.19(3).

ITEM 9. Amend paragraph **20.19(3)“k”** as follows:

k. The statement “Not for resale” and, if the preparation is dispensed or distributed other than pursuant to a patient-specific prescription for an individual identified patient, the statement “OFFICE USE ONLY.”

ITEM 10. Amend **657—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.13C, 155A.28, 155A.33, and 155A.35.

ITEM 11. Adopt the following new 657—Chapter 41:

CHAPTER 41
OUTSOURCING FACILITIES

657—41.1(155A) Purpose and scope. The purpose of this chapter is to establish the minimum standard of practice for outsourcing facilities that intend to provide compounding services in or into Iowa. The requirements of these rules, in addition to any other board rules applicable to the facility’s operation, apply to all Iowa-licensed outsourcing facilities that provide compounded medications in or into Iowa whether pursuant to a patient-specific prescription or not.

657—41.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Board*” means the Iowa board of pharmacy.

“*FDA*” means the United States Food and Drug Administration.

“*Home state*” means the state in which an outsourcing facility is located.

“*Outsourcing facility*” or “*facility*” means any compounding facility that is registered as an outsourcing facility, as defined in 21 U.S.C. Section 353b, that distributes sterile compounded human drug products without a patient-specific prescription to an authorized agent or practitioner in this state.

657—41.3(155A) Outsourcing facility license. Beginning January 1, 2018, an outsourcing facility shall apply for and obtain an outsourcing facility license from the board prior to providing non-patient-specific compounded human drug products in this state. The applicant shall submit a completed application along with an application fee of \$400. An outsourcing facility that intends to distribute controlled substances in or into Iowa shall also, prior to distributing such substances in or into Iowa, apply for and obtain an Iowa controlled substances Act registration pursuant to 657—Chapter 10.

41.3(1) Application requirements. The application shall require demographic information about the facility; ownership information; the name, signature and home state license number for the supervising pharmacist; an attestation that the supervising pharmacist has read and understands the laws and rules relating to sterile compounding in Iowa; information about the entity’s registered agent; criminal and disciplinary history information; and a description of the scope of services to be provided in Iowa. As part of the application process, the applicant shall also:

a. Submit evidence of possession of a valid registration with the FDA as an outsourcing facility.

b. If one or more inspections have been conducted by the FDA in the five-year period immediately preceding the application, submit a copy of any correspondence from the FDA as a result of the inspection, including but not limited to any form 483s, warning letters, or formal responses, and all correspondence from the applicant to the FDA related to such inspections, including but not limited

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to formal responses and corrective action plans. In addition, the applicant shall submit evidence of correction of all deficiencies discovered in such inspections and evidence of compliance with all directives from the FDA.

c. Submit evidence that the supervising pharmacist, as described in 21 U.S.C. Section 353b(a), holds a valid pharmacist license in the state in which the facility is located and that such license is in good standing.

d. Submit information to facilitate a national criminal history record check.

41.3(2) Provision of patient-specific prescriptions. If an outsourcing facility intends to dispense prescription drugs pursuant to patient-specific prescriptions to individual patients in Iowa, the outsourcing facility shall also obtain and maintain a valid Iowa pharmacy license. If the pharmacy is located in Iowa, the pharmacy shall obtain and maintain a valid Iowa pharmacy license pursuant to 657—Chapter 8; if the pharmacy is located outside Iowa, the pharmacy shall, prior to dispensing prescriptions to patients located in Iowa, obtain and maintain a valid Iowa nonresident pharmacy license pursuant to 657—Chapter 19.

41.3(3) License renewal. The outsourcing facility license shall be renewed by January 1 of each year. The facility shall submit the license application and fee as provided in this rule. An outsourcing facility may renew its license beginning November 1 prior to license expiration. An initial outsourcing facility license issued between November 1 and December 31 shall not require renewal until the following calendar year. The fee for license renewal shall be \$400.

a. *Delinquent license grace period.* If an outsourcing facility license has not been renewed or canceled prior to expiration, but the facility is in the process of renewing the license, the license becomes delinquent on January 1. An outsourcing facility that submits a completed license renewal application, application fee, and late penalty fee of \$400 postmarked or delivered to the board office by January 31 shall not be subject to disciplinary action for continuing to provide services to Iowa customers in the month of January.

b. *Delinquent license reactivation beyond grace period.* If an outsourcing facility license has not been renewed prior to the expiration of the one-month grace period identified in paragraph 41.3(3) “a,” the facility may not continue to provide services to Iowa customers. An outsourcing facility that continues to provide services to Iowa customers without a current license may be subject to disciplinary sanctions. An outsourcing facility without a current license may apply for reactivation by submitting an application for license reactivation and a \$1,600 reactivation fee. As part of the reactivation application, the facility shall disclose the services, if any, that were provided to Iowa customers while the license was delinquent.

41.3(4) License changes. If an outsourcing facility has a change of name, ownership, location or supervising pharmacist, the facility shall submit to the board an outsourcing facility license application and applicable fee within ten days of the FDA’s issuance of an updated registration. Following processing of the completed license application and fee, the board shall issue a new license certificate that reflects the change or changes.

41.3(5) License cancellation. If an outsourcing facility ceases to be registered as an outsourcing facility with the FDA, the facility shall immediately cease distribution of non-patient-specific compounded drug products in or into this state and shall return its Iowa outsourcing facility license to the board within ten days of such occurrence. Upon receipt, the board shall administratively cancel the outsourcing facility license. If an outsourcing facility intends to discontinue business in this state, the facility shall notify the board in writing of its intent at least 30 days in advance of the discontinuation of services and request that the license be administratively canceled. To the extent possible to avoid unnecessary delays in obtaining product for patients, an outsourcing facility that intends to discontinue services in Iowa should provide advance notice to its customers of the date that the outsourcing facility intends to cease distributing products in this state. The notice requirements of this rule shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.

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657—41.4(155A) Applicability of board rules. An outsourcing facility shall comply with all requirements of this chapter, 657—Chapter 20, and any other board rules relating to the services that are provided to Iowa customers.

41.4(1) *Controlled substances.* An outsourcing facility providing prescription drugs identified as controlled substances under Iowa Code chapter 124 to Iowa customers or patients shall comply with all requirements of 657—Chapter 10.

41.4(2) *Electronic data.* An outsourcing facility utilizing any electronic data processing or transmission devices or services shall comply with all requirements of 657—Chapter 21.

41.4(3) *Patient-specific prescriptions.* An outsourcing facility that also provides patient-specific compounded medications pursuant to a prescription shall comply with all requirements of 657—Chapters 8, 19, and 20.

657—41.5(155A) Reporting discipline and criminal convictions. An outsourcing facility shall provide written notice to the board of any disciplinary or enforcement action imposed by any licensing or regulatory authority on any license or registration held by the facility. Written notice shall be received no later than 30 days after the final action. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. An outsourcing facility shall provide written notice to the board of any criminal conviction of the facility or of any owner that is related to the operation of the facility no later than 30 days after the conviction. The term “criminal conviction” includes instances when the judgment of conviction or sentence is deferred.

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

1. Any violation of the Federal Food, Drug, and Cosmetic Act or federal regulations promulgated under the Act. A warning letter issued by the FDA shall be conclusive evidence of a violation.

2. Any conviction of a crime related to prescription drugs or the practice of pharmacy committed by the outsourcing facility, supervising pharmacist, or individual owner, or if the outsourcing facility is an association, joint stock company, partnership, or corporation, by any managing officer.

3. Refusing access to the outsourcing facility or facility records to an agent of the board for the purpose of conducting an inspection or investigation.

4. Failure to maintain licensure pursuant to 657—Chapter 8 or 657—Chapter 19 when dispensing compounded drugs pursuant to patient-specific prescriptions into the state.

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

These rules are intended to implement Iowa Code sections 124.301 and 155A.13C.

[Filed 7/7/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3239C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 42, “Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials,” Iowa Administrative Code.

Chapter 42 is amended to provide for an endorsement to the general nuclear medicine technologist permit that would allow nuclear medicine technologists to operate computed tomography units for examinations outside of nuclear medicine studies. Currently, nuclear medicine technologists are allowed to administer radioactive materials and to use computed tomography for attenuation correction

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in relation to the nuclear medicine studies of PET/CT or SPECT/CT but are not allowed to operate radiation machines outside of nuclear medicine studies unless the nuclear medicine technologists also hold a radiography permit. In response to industry desire to allow for flexibility in staffing, nuclear medicine training programs and certification boards have evolved to cover additional aspects of computed tomography into their curriculum and advanced testing options. With this additional training and certification, nuclear medicine technologists would possess the minimum training requirements necessary to perform computed tomography outside of a nuclear medicine study. These amendments define computed tomography and outline the minimum requirements for an endorsement to the general nuclear medicine permit to allow endorsement holders to perform computed tomography outside the scope of nuclear medicine. There is no change in scope of practice for any other permit modalities. These amendments were drafted with input from the Iowa Society of Radiologic Technologists and a facility with both a nuclear medicine department and a training program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3074C** on May 24, 2017. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The State Board of Health adopted these amendments on July 12, 2017.

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

These amendments are intended to implement Iowa Code chapter 136C.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of “Computed tomography,” “Nuclear medicine diagnostic computed tomography endorsement,” “PET/CT,” and “SPECT/CT” in rule **641—42.2(136C)**:

“*Computed tomography*” or “*CT*” means a technique for generating a series of X-ray images taken from different angles and processed with computer software.

1. “Diagnostic computed tomography” means the use of computed tomography to create cross-sectional images of the human body to be used for diagnosis.

2. “Attenuation correction” means the use of X-rays from a CT scan to construct an attenuation map of density differences throughout the body that can then be used to correct for the absorption of the photons emitted from Fluorodeoxyglucose (¹⁸F) decay during a PET/CT scan.

“*Nuclear medicine diagnostic computed tomography endorsement*” means a qualification that allows a nuclear medicine technologist to perform diagnostic computed tomography of the human body as ordered by an individual authorized by Iowa law to order radiography.

“*PET/CT*” means an imaging modality that uses positron emission tomography and computed tomography in one device to combine the structural anatomic information with functional data collected during the examination.

“*SPECT/CT*” means an imaging modality that uses single-photon emission computed tomography and computed tomography in one device to combine the structural anatomic information with functional data collected during the examination.

ITEM 2. Amend rule **641—42.2(136C)**, definitions 2 of “Nuclear medicine technologist,” “Radiologic technologist,” and “X-ray equipment operator,” as follows:

“*Nuclear medicine technologist*” means an individual who performs nuclear medicine procedures while under the supervision of an authorized user. The classifications are as follows:

1. “General nuclear medicine technologist” performs any nuclear medicine procedures and may perform computed tomography for attenuation correction during PET/CT or SPECT/CT only.

2. “Limited nuclear medicine technologist” performs nuclear medicine procedures only as approved by the department at the time the initial permit was issued.

“*Radiologic technologist*” means an individual, excluding X-ray equipment operators, who performs radiography of the human body as ordered by an individual authorized by Iowa law to order radiography. The classifications are as follows:

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1. “General radiologic technologist” performs radiography and computed tomography of any part of the human body.

2. “Limited radiologic technologist” performs radiography for the chest, spine, extremities, shoulder or pediatrics, excluding ~~CT~~ computed tomography and fluoroscopy.

3. “Limited in-hospital radiologic technologist” performs radiography of any part of the human body as approved by the department at the time the initial permit was issued.

“*X-ray equipment operator*” means an individual performing radiography of the human body using dedicated equipment as ordered by an individual authorized by Iowa law to order radiography. These individuals do not qualify for a permit in any other classification. The classifications are as follows:

1. “Podiatric X-ray equipment operator” performs radiography of only the foot and ankle using dedicated podiatric equipment. Studies using ~~CT~~ computed tomography, fluoroscopy, or nondedicated equipment are prohibited.

2. “Bone densitometry equipment operator” performs bone densitometry using only dual energy X-ray absorptiometry equipment. Studies using ~~CT~~ computed tomography, fluoroscopy, or nondedicated equipment are prohibited.

ITEM 3. Adopt the following **new** subrule 42.6(4):

42.6(4) An individual applying for a nuclear medicine diagnostic computed tomography endorsement shall:

a. Maintain an active permit to practice as a general nuclear medicine technologist. Endorsements may not be held without an active permit.

b. Submit proof of a passing score on the ARRT or NMTCB computed tomography examination.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3240C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147A.2 and 147A.27, the Department of Public Health hereby amends Chapter 134, “Trauma Care Facility Categorization and Verification,” Iowa Administrative Code.

The rules in Chapter 134 define the categorization levels for Iowa trauma care facilities and the criteria standards used to verify that hospitals meet the identified categorization levels. Minor changes to Chapter 134 have been made in the past five years, but significant updates have not been made to the trauma facility verification criteria standards since the early 2000s. The previously adopted Iowa criteria are based on criteria established by the American College of Surgeons Committee on Trauma (ACS-COT). The ACS-COT criteria were modified by Iowa physicians to tailor the criteria for application in Iowa. The Iowa modified criteria created inconsistencies from national trauma standards, resulting in inconsistencies within Iowa’s verified trauma facilities based on whether the facility completed an ACS-COT review or an Iowa review.

The ACS-COT has the national subject matter experts in the field of trauma. The ACS-COT conducted an Iowa trauma system consultation in February 2015. The consultation resulted in multiple recommendations. Two recommendations were to adopt and utilize ACS-COT criteria as outlined in the Resources for Optimal Care of the Injured Patient 2014 (6th edition) and to seek ACS-COT verification of trauma care facilities instead of conducting verification based on Iowa modified criteria. Since February 2015, the Trauma System Advisory Committee (TSAC) and its verification subcommittee have worked to review and implement recommendations from the ACS-COT. The verification subcommittee consists of representatives from every level of trauma care facility. Multiple meetings were held in 2015 and early 2016 to identify the positive impacts and unintended consequences associated with adoption

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of the ACS-COT criteria for all trauma care facility levels, verification of all Iowa Level I and Level II hospitals by the ACS-COT, and modifications to the verification review processes. Iowa's trauma care facilities can expect the following impacts:

1. Level I trauma care facilities: No impact from the rule changes. All Iowa Level I trauma care facilities currently complete ACS-COT verification.

2. Level II trauma care facilities: There are four trauma care facilities verified as Level II in Iowa. Two Iowa facilities complete ACS-COT verification, and the other two Iowa facilities complete Iowa verification using Iowa modified criteria. The ACS-COT verified Level II trauma care facilities are held to a higher standard related to resources and trauma care capabilities than the Iowa verified trauma care facilities due to the inconsistencies in ACS-COT criteria and Iowa verification criteria. Having trauma care facilities within the state with the same categorization level but not the same verification standard creates inconsistencies within the system.

Level I and II trauma care facilities provide definitive care for the most significantly injured trauma patients. These facilities must have the physicians, staff, and resources needed to provide definitive care for any type of trauma patient, except patients with significant burns. Patients with significant burns are treated at accredited burn centers. There is only one accredited burn center in Iowa.

These amendments will have no impact on the ACS-COT verified Level II facilities because these facilities currently complete ACS-COT verification. The ACS-COT criteria include robust requirements related to hospital and surgical capabilities, performance improvement, and outreach activities inclusive of emergency medical service (EMS) and rural trauma care facilities.

The Iowa verified Level II trauma care facilities identified the following concerns with ACS-COT verification and utilization of ACS-COT criteria:

- The cost associated with ACS-COT verification. The increased costs originate from the actual cost of the ACS-COT verification process and visit and from the costs for additional physicians and staffing.

- Transition to a Level III facility (if unable to achieve ACS-COT Level II verification) may lead to a lower level of care available at the trauma care facility and diminish the hospital's ability to recruit physicians. (Transition to the ACS-COT verification using ACS-COT criteria substantially raises the verification criteria requirements for Iowa verified Level II trauma care facilities.)

3. Level III trauma care facilities: Iowa has 17 verified Level III trauma care facilities (all verified by Iowa). For the majority of the facilities, transition to the ACS-COT Level III criteria will have little or no impact on the facility. Three of the facilities may have difficulty achieving the orthopedic surgical services requirements identified in the criteria (previously not required by Iowa modified criteria). Transition to the ACS-COT criteria minimally to moderately raises the verification criteria requirements for the Iowa Level III trauma care facilities depending on the facilities' capabilities.

4. Level IV trauma care facilities: Iowa has 95 verified Level IV trauma care facilities (all verified by Iowa). The transition to the ACS-COT criteria has a significant benefit to the Level IV facilities. The ACS-COT criteria reduce the financial burden on the hospitals by allowing the use of advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) in the hospital emergency departments without maintaining a physician on call. The education requirements are reduced for physicians at Level IV facilities. These changes are consistent with the needs of Iowa's rural facilities. Transition to the ACS-COT criteria lowers verification criteria requirements for the Iowa Level IV trauma care facilities while ensuring trained staff and quality access to life-sustaining trauma care in Iowa's rural communities. Level IV trauma care facilities primarily provide initial life-sustaining stabilization to a trauma patient before patient transfer occurs to a Level I, II, or III trauma care facility for definitive treatment. Transport decisions address the needs of the patient and consider the closest available resources to provide optimal care for the patient.

The TSAC verification subcommittee made the following recommendations to the TSAC in January 2016:

- ACS-COT verification of all Level I and II facilities in Iowa.
- Utilization of ACS-COT criteria for all trauma categorization levels (I-IV).
- Weighted criteria and a more clearly outlined disciplinary process.

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The TSAC recommended that the Department provide notice of administrative rule changes to Chapter 134 reflecting the recommendations from the verification subcommittee. Iowa's trauma facility coordinators were engaged during the drafting process to provide comments and suggestions, and their comments and suggestions influenced the development of the Department's Notice of Intended Action (**ARC 3075C**, 5/24/17 Iowa Administrative Bulletin).

During the 2016 Legislative Session, language was introduced to amend Iowa Code section 147A.23(2)"c" to indefinitely suspend modifications to Level II trauma verification criteria from the criteria that were in effect on July 1, 2015. The legislative language passed through the Health and Human Services appropriations bill. The Governor subsequently vetoed this language at the end of the 2016 session.

Throughout 2016, TSAC requested that the Department pursue implementation of the recommendations made in January 2016. The Department continued to review the recommendations and began engaging the Iowa Hospital Association (IHA) and hospitals that specifically notified the Department about concerns over the proposed changes.

Several conference calls and face-to-face meetings occurred with IHA and hospital representatives to identify acceptable compromises in association with the proposed amendments to Chapter 134. The Department coordinated with TSAC during the November 2016, January 2017, and April 2017 council meetings to modify these amendments and to establish consensus amongst the trauma system constituency.

One Iowa verified Level II facility requested that two verification cycles (six years) be allowed before transitioning to ACS-COT verification. Some members of the TSAC recommended one year for transition (which is consistent with the time provided to ACS-COT facilities to meet criteria when the criteria are updated on the national level). TSAC ultimately recommended a three-year period for the Iowa Level II facilities to transition to the ACS-COT criteria.

The Iowa Level II facility continued to advocate for six years to transition. The Department met with the requesting hospital face-to-face on two occasions and participated in several conference calls to find a compromise. The Department is adopting a four-year period, from September 6, 2017, the effective date of these amendments, for the Iowa verified Level II facilities to transition to ACS-COT verification or to transition to an Iowa verified Level III or Level IV trauma care facility. The Department believes it to be a reasonable compromise to allow four years for facilities to recruit necessary medical staff needed to achieve ACS-COT Level II verification.

The Department is adopting amendments to Chapter 134 for the following reasons:

- ACS-COT criteria are evidence-based national standards developed by nationally recognized subject matter experts in the field of trauma. The "Resources for Optimal Care of the Injured Patient 2014" (6th edition) can be used as a consistent reference across Iowa's trauma system.
- Utilization of only ACS-COT teams to verify Level II trauma care facilities in Iowa will eliminate inconsistencies between ACS-COT verification teams and Iowa verification teams.
- Hospitals verified at each categorization level will have consistent criteria to meet as well as consistent resources and capabilities for that level.

The following is a summary of the amendments to Chapter 134:

1. Throughout the chapter, references to hospital and emergency facilities are replaced with references to trauma facilities, where appropriate, and the terms resource, regional, area and community facilities are replaced with the appropriate level categorization designation I, II, III, or IV. Updates are made to the name of the bureau and its Web site address.

2. In rule 641—134.1(147A), definitions are added for "criteria deficiency," "final report," "governing body," "persistently occurring deficiencies," "trauma survey team," "type I criteria," and "type II criteria." Edits are made to the definitions of "trauma care facility," "on-site verification survey," and "verification."

3. In subrule 134.2(3), the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) as published by the American College of Surgeons Committee on Trauma is adopted by reference.

4. New paragraph 134.2(3)"c" provides that trauma care facilities shall transition to the criteria outlined in the national reference "Resources for Optimal Care of the Injured Patient 2014" (6th edition)

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as published by the American College of Surgeons Committee on Trauma and provides the specific time lines for each level of trauma care facility to complete the transition.

5. The amendments to subrule 134.2(6) clarify that Level I and Level II trauma care facilities shall be verified by the American College of Surgeons Committee on Trauma (ACS-COT) and that the Level III and Level IV trauma care facilities will be verified by the Department. An ACS-COT verification shall be accepted by the Department as state verification as a trauma care facility. If Level I and II facilities fail an ACS-COT verification, the trauma care facility will submit to the Department an application for a Level III or IV verification until the ACS-COT recommendations are met and the trauma care facility can be visited and verified by the ACS-COT.

6. The amendments to subrule 134.2(7) provide that verification criteria are weighted by criteria types (Type I and Type II) as indicated in the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma and adopted in paragraph 134.2(3)“a.” Clarification related to these types of criteria deficiencies and resulting disciplinary action is provided. The amendments also provide that the Department may conduct electronic review or on-site verification for deficiency resolution, that the Department may conduct chart reviews, that all proceedings, records and reports from site visits are peer review records and are not subject to discovery by subpoena or admissible evidence, and that all information and documents are confidential.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3075C** on May 24, 2017. A public hearing was held on June 13, 2017, from 1 to 2 p.m. in Room 517, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. The Department received one comment in support of the amendments. These amendments are identical to those published under Notice of Intended Action.

The State Board of Health adopted these amendments on July 12, 2017.

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

These amendments are intended to implement Iowa Code section 147A.2.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 641—134.1(147A) as follows:

641—134.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Categorization*” means a preliminary determination by the department that a hospital or emergency care facility is capable of providing trauma care at Level I, II, III or IV care capabilities.

“*Certificate of verification*” means a document awarded by the department that identifies a hospital or emergency care facility’s level and term of verification as a trauma care facility.

“*Criteria deficiency*” or “*deficiency*” means a failure to meet criteria requirements as outlined in paragraph 134.2(3)“a.”

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Emergency care facility*” means a physician’s office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.

“*Emergency medical care provider*” means emergency medical care provider as defined in 641—131.1(147A).

“*Final report*” means the verification report issued by the department following a verification review conducted by trauma survey team members and department staff.

“*Governing body*” means a group of individuals responsible for the governance of a hospital, including but not limited to a board of directors or board of trustees.

“*Hospital*” means any hospital licensed under Iowa Code chapter 135B.

“*On-site verification survey*” means an on-site survey conducted by the department or survey team members to assess a hospital or emergency care facility’s ability to meet the level of categorization requested.

“*Persistently occurring deficiencies*” means deficiencies identified in two sequential verification reviews.

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“*Trauma*” means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

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

“*Trauma care system*” means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.

“*Trauma survey team*” means a group of health care providers contracted by the department to assist in verifying trauma care facilities’ compliance with trauma criteria adopted in 134.2(3).

“*Type I criteria*” or “*Type I criteria deficiency*” indicates criteria requirements that may significantly impact a trauma care facility’s ability to provide optimal care for trauma patients.

“*Type II criteria*” or “*Type II criteria deficiency*” indicates criteria that are required but have a less critical impact on the trauma care facility’s ability to provide optimal care for trauma patients than Type I criteria.

“*Verification*” means a process by which the department certifies a hospital or emergency trauma care facility’s capacity to provide trauma care in accordance with criteria established for ~~Resource (Level I)~~ Level I, ~~Regional (Level II)~~ Level II, ~~Area (Level III)~~ Level III or ~~Community (Level IV)~~ Level IV trauma care facilities and these rules.

ITEM 2. Amend rule 641—134.2(147A), introductory paragraph, as follows:

641—134.2(147A) Trauma care facility categorization and verification. Categorization and verification of hospitals and emergency trauma care facilities shall be made by the department based upon the hospitals’ or emergency trauma care facilities’ resources available for providing trauma care services.

ITEM 3. Amend paragraph **134.2(1)“c”** as follows:

c. Categorization applications may be obtained from the department upon written request to: Iowa Department of Public Health, Bureau of Emergency Medical and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 4. Amend subrules 134.2(2) to 134.2(7) as follows:

134.2(2) Categorization levels for trauma care facilities shall be identified as:

- a. ~~Resource (Level I)~~ Level I.
- b. ~~Regional (Level II)~~ Level II.
- c. ~~Area (Level III)~~ Level III.
- d. ~~Community (Level IV)~~ Level IV.

134.2(3) Adoption by reference.

a. Criteria specific to Level I trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient 2014” (2006) (6th edition) published by the American College of Surgeons Committee on Trauma (ACS-COT) is incorporated and adopted by reference for Resource (Level I) Level I hospital and emergency care facility categorization criteria. “Iowa Trauma System Regional (Level II) Hospital and Emergency Care Facility Categorization Criteria” (2013) Criteria specific to Level II trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for Regional (Level II) Level II hospital and emergency care facility categorization criteria. “Iowa Trauma System Area (Level III) Hospital and Emergency Care Facility Categorization Criteria” (2013) Criteria specific to Level III trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for Area (Level III) Level III hospital and emergency care facility categorization criteria. “Iowa Trauma System Community (Level IV)

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~~Hospital and Emergency Care Facility Categorization Criteria~~ (2013) Criteria specific to Level IV trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for ~~Community (Level IV)~~ Level IV hospital and emergency care categorization criteria. For any differences which may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

~~b. “Iowa Trauma System Regional (Level II) Hospital and Emergency Care Facility Categorization Criteria” (2013), “Iowa Trauma System Area (Level III) Hospital and Emergency Care Facility Categorization Criteria” (2013) and “Iowa Trauma System Community (Level IV) Hospital and Emergency Care Facility Categorization Criteria” (2013) are “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma is available through the Iowa Department of Public Health, Bureau of EMS Emergency and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS BETS Web site (www.idph.state.ia.us/ems) (<http://idph.iowa.gov/BETS/Trauma>).~~

~~c. Trauma care facilities shall transition to the criteria outlined in paragraph 134.2(3) “a.”~~

~~(1) Level IV trauma care facilities shall transition to the criteria outlined in paragraph 134.2(3) “a” on or before October 1, 2017.~~

~~(2) Level III trauma care facilities shall maintain, at a minimum, the criteria requirements effective in 2013 until a transition to the criteria in paragraph 134.2(3) “a” at the next scheduled verification visit. Transition to paragraph 134.2(3) “a” criteria shall be completed on or before December 31, 2020.~~

~~(3) Level II trauma care facilities shall maintain, at a minimum, the criteria requirements effective in 2013 until American College of Surgeons Committee on Trauma verification on or before October 31, 2021.~~

~~d. The 2013 criteria for all levels of trauma care facilities are available through the Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the BETS Web site (<http://idph.iowa.gov/BETS/Trauma>).~~

134.2(4) Categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a ~~hospital or emergency~~ trauma care facility.

134.2(5) A ~~hospital, emergency care facility, or~~ trauma care facility may apply to the department for a change in level of categorization through submission of a self-assessment categorization application. Hospitals, emergency care facilities, or trauma care facilities applying for initial verification or a change in level of categorization shall be verified based on the criteria outlined in paragraph 134.2(3) “a.”

134.2(6) Verification. Verification of a trauma care facility shall be determined by the department upon successful completion of the categorization application and completion of a verification survey. All categorized hospitals and emergency care facilities shall be verified.

~~a. Level I and Level II trauma care facilities shall be verified by the American College of Surgeons Committee on Trauma on or before October 31, 2021.~~

~~b. Trauma care facilities verified by the American College of Surgeons Committee on Trauma shall be accepted by the department as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. The department may issue a certification of verification provided that the trauma care facility has been verified by the American College of Surgeons Committee on Trauma. The facility shall provide the department documentation including, but not limited to, a current copy of the ACS-COT verification.~~

~~c. A Level I or Level II trauma care facility which fails to attain American College of Surgeons Committee on Trauma verification shall submit an application to the department to be verified as a Level III or Level IV trauma care facility to ensure compliance with Iowa Code section 147A.23(2) “a.”~~

~~d. Level III and Level IV trauma care facilities shall be verified by the department in consultation with the trauma survey team.~~

134.2(7) The department shall conduct a verification survey for categorized hospitals or emergency care facilities.

~~a. A verification survey shall assess the ability of the hospital or emergency care facility to meet criteria for the level of categorization pursuant to 134.2(3).~~

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b. Verification criteria are weighted by criteria types, Type I and Type II, as indicated in the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma and adopted in 134.2(3)“a.”

c. Type II criteria deficiencies identified during the verification process may result in disciplinary action. Criteria deficiencies shall be resolved in accordance with the trauma care facility’s final report. Failure to rectify deficiencies in accordance with the trauma care facility’s final report shall result in disciplinary action.

d. Type I criteria deficiencies or persistently occurring Type II criteria deficiencies identified during the verification process shall result in disciplinary action. The department shall notify the trauma care facility’s governing body of Type I or persistently occurring Type II criteria deficiencies. The trauma care facility shall implement a plan of correction within 45 days of issuance of the trauma facility’s final report. Criteria deficiencies shall be resolved in accordance with the trauma care facility’s final report and the implemented plan of correction. Failure to rectify deficiencies shall result in disciplinary action.

e. The department may conduct electronic review or on-site verification that criteria deficiencies have been resolved as outlined in final reports or disciplinary actions.

~~b. f.~~ The department shall approve trauma care facility verification when the department is satisfied that the proposed facility will provide services and be operated in compliance with Iowa Code section 147A.23 and these administrative rules.

~~e. g.~~ The department shall notify the applicant, in writing, as to the approval or denial of verification as a trauma care facility within 90 days after the completion of a verification survey.

~~d. h.~~ Verification shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a hospital or emergency care facility.

~~e. i.~~ Trauma care facility verification is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

~~f. j.~~ Trauma care facilities shall be fully operational at their verified level upon the effective date specified on the certificate of verification. Trauma care facilities shall meet all requirements of Iowa Code section 147A.23 and these administrative rules.

~~g. k.~~ As part of the verification and renewal process, the department or its designated trauma survey team may conduct periodic on-site reviews of the services and facilities of trauma care facilities including chart review at those facilities.

~~h. l.~~ Trauma care facilities that are unable to maintain their categorization or verification, or both, shall notify the department within 48 hours.

~~i. m.~~ The director, pursuant to ~~rule 641—~~Chapter 178, may grant a variance from the requirements of rules adopted under this chapter for any hospital or emergency trauma care facility provided that the variance is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter.

~~j.~~ Hospitals currently verified by the American College of Surgeons shall be accepted as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. Documentation shall be provided to the department including, but not limited to, a current copy of the ACS verification certification, the hospital’s completed ACS verification application or a completed Self-Assessment Categorization Application (SACA).

n. Proceedings, records, and reports developed pursuant to this chapter constitute peer review records under Iowa Code section 147.135, and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital, emergency care facility, or trauma care facility under Iowa Code chapter 147A shall be confidential pursuant to Iowa Code section 272C.6(4).

ITEM 5. Amend subrules 134.3(2) to 134.3(4) as follows:

134.3(2) All complaints regarding the operation of a trauma care facility, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public

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Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

134.3(3) An EMS provider who has knowledge of a hospital, emergency care facility or trauma care facility that has violated Iowa Code section 147A.23, or these administrative rules, shall immediately report such information to the department. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

134.3(4) Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code ~~section~~ sections 22.7 and 147A.24 and Iowa Code chapter 272C.

ITEM 6. Amend subrule 134.3(7) as follows:

134.3(7) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

ITEM 7. Amend subrule 134.3(15) as follows:

134.3(15) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3241C

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Adopted and Filed

Pursuant to the authority of Iowa Code sections 147A.2 and 147A.27, the Department of Public Health hereby amends Chapter 137, "Trauma Education and Training," Iowa Administrative Code.

Chapter 137 establishes minimum education requirements for medical personnel caring for trauma patients in Iowa's trauma care facilities. The rules in Chapter 137 are updated to reference and support rules in Chapter 134, "Trauma Care Facility Categorization and Verification," for which amendments are adopted in **ARC 3240C** herein. The Department coordinated with the Trauma System Advisory Council (TSAC) to amend the rules in Chapter 137. The amendments to these rules were also shared with all Iowa trauma coordinators during the drafting process for the purpose of receiving comments and suggestions. The suggestions received were incorporated into the final draft before final approval by TSAC.

The amendments to the rules include the following:

1. In rule 641—137.1(147A), all definitions that are no longer referenced in the rules are stricken and edits are made to the definitions of "trauma care facility," "trauma patient," "trauma system advisory council," "trauma team" and "verification."

2. In paragraph 137.2(1)"c," regarding general requirements for initial trauma education, the name and Web site address of the bureau are updated.

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3. In paragraph 137.2(2)“a,” which sets forth specific requirements for initial trauma education, clarifications regarding the education required for physicians, physician assistants and advanced registered nurse practitioners are made.

4. In subrule 137.3(1), specific training requirements for each provider category are added to the continuing education requirements.

5. Subrule 137.3(2), which contains the general requirements for continuing trauma education, is rescinded because the requirements are no longer relevant due to the use of national guidelines.

6. Subrule 137.3(3), which contains the specific requirements for each provider category, is rescinded because the requirements are no longer relevant due to the use of national guidelines.

7. Subrule 137.3(4), regarding continuing education for EMS providers, is rescinded because EMS provider education is clearly defined in 641—Chapter 131.

8. New rule 641—137.4(147A), regarding offenses and penalties, clarifies that offenses and penalties will be addressed pursuant to 641—Chapter 134.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3076C** on May 24, 2017. A public hearing was held on June 13, 2017, from 2 to 2:30 p.m. in Room 517, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. The Department received one comment requesting that no change be made to the original definition of “advanced registered nurse practitioner.” The commenter felt that the longer, original definition was still relevant and a more accurate definition. Based on this comment and Department review, the Department is retaining the original definition. Except for the one change to retain the original definition of “advanced registered nurse practitioner” rather than to amend it as proposed, these amendments are identical to those published under Notice of Intended Action.

The State Board of Health adopted these amendments on July 12, 2017.

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

These amendments are intended to implement Iowa Code section 147A.2.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 641—137.1(147A) as follows:

641—137.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

~~“ACLS course” means advanced cardiac life support course.~~

~~“Advanced emergency medical technician” or “AEMT” means advanced emergency medical technician as defined in 641—131.1(147A).~~

~~“Advanced registered nurse practitioner” or “ARNP” means a nurse pursuant to 655—7.1(152) with current licensure as a registered nurse in Iowa who is registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings within an interdisciplinary health care team, which provide for consultation, collaborative management, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.~~

~~“Advanced trauma life support course®” or “ATLS®” means a course for physicians with an emphasis on the first hour of initial assessment and primary management of the injured patient, starting at the point in time of injury continuing through initial assessment, life-saving intervention, reevaluation, stabilization, and transfer when appropriate.~~

~~“Department” means the Iowa department of public health.~~

~~“Director” means the director of the Iowa department of public health.~~

~~“Emergency care facility” means a physician’s office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.~~

~~“Emergency medical care provider” means emergency medical care provider as defined in 641—131.1(147A).~~

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~~“Emergency medical services” or “EMS” means emergency medical services as defined in 641—132.1(147A).~~

~~“Emergency medical technician” or “EMT” means emergency medical technician as defined in 641—131.1(147A).~~

~~“Emergency medical technician-ambulance” or “EMT-A” means emergency medical technician-ambulance as defined in 641—131.1(147A).~~

~~“Emergency medical technician-basic” or “EMT-B” means emergency medical technician-basic as defined in 641—131.1(147A).~~

~~“Emergency medical technician-defibrillation” or “EMT-D” means emergency medical technician-defibrillation as defined in 641—131.1(147A).~~

~~“Emergency medical technician-intermediate” or “EMT-I” means emergency medical technician-intermediate as defined in 641—131.1(147A).~~

~~“Emergency medical technician-paramedic” or “EMT-P” means emergency medical technician-paramedic as defined in 641—131.1(147A).~~

~~“First responder” or “FR” means first responder as defined in 641—131.1(147A).~~

~~“First responder-defibrillation” or “FR-D” means first responder-defibrillation as defined in 641—131.1(147A).~~

~~“Formal education” means education in standardized educational settings with a curriculum.~~

~~“Hospital” means a facility licensed under Iowa Code chapter 135B, or comparable emergency care facility located and licensed in another state.~~

~~“Licensed practical nurse” or “LPN” means an individual licensed pursuant to Iowa Code chapter 152.~~

~~“NRP course” means neonatal resuscitation provider course.~~

~~“PALS course” means pediatric advanced life support course.~~

~~“Paramedic” means paramedic as defined in 641—131.1(147A).~~

~~“Paramedic specialist” or “PS” means paramedic specialist as defined in 641—131.1(147A).~~

~~“Physician” means an individual licensed under Iowa Code chapter 148, 150 or 150A.~~

~~“Physician assistant” or “PA” means an individual licensed pursuant to Iowa Code chapter 148C.~~

~~“Practitioner” means a person who practices medicine or one of the associated health care professions.~~

~~“Registered nurse” or “RN” means an individual licensed pursuant to Iowa Code chapter 152.~~

~~“Service program” or “service” means service program as defined in 641—132.1(147A).~~

~~“Trauma” means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or disability.~~

~~“Trauma care facility” means a hospital or emergency care facility which provides trauma care and has been verified by the department as having Resource-(Level I), Regional-(Level II), Area-(Level III) or Community-(Level IV) care capabilities and has been issued a certificate of verification pursuant to Iowa Code section 147A.23, subsection 2, paragraph “c.” 147A.23(2)“c.”~~

~~“Trauma care system” means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.~~

~~“Trauma nursing course objectives” means the trauma nursing course objectives recommended to the department by the trauma system advisory council and adopted by reference in these rules.~~

~~“Trauma patient” means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen (ICD9 Codes E800.0—E999.9).~~

~~“Trauma system advisory council” or “TSAC” means the council established by the department pursuant to Iowa Code section 147A.24 to advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state, to assist the department in the implementation of an Iowa trauma care plan, to develop criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities, to develop a process for verification of the trauma care capacity of each facility and the issuance of a certificate of verification, to develop standards for medical direction, trauma care, triage and transfer protocols, and trauma registries, to promote public~~

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~~information and education activities for injury prevention, to review rules adopted under this division, and to make recommendations to the director for changes to further promote optimal trauma care.~~

~~“Trauma team” means a team of multidisciplinary health care providers established and defined by a hospital or emergency trauma care facility that provides trauma care commensurate with the level of trauma care facility verification.~~

~~“Verification” means a process by which the department certifies a hospital or emergency trauma care facility’s capacity to provide trauma care in accordance with criteria established for Resource (Level I), Regional (Level II), Area (Level III) or Community (Level IV) trauma care facilities and these rules.~~

ITEM 2. Amend rule 641—137.2(147A), introductory paragraph, as follows:

641—137.2(147A) Initial trauma education for Iowa’s trauma system requirements. Initial trauma Trauma education is required of physicians, physician assistants, advanced registered nurse practitioners, registered nurses, and licensed practical nurses who are identified or defined as trauma team members by a trauma care facility and who participate directly in the initial resuscitation of the trauma patient.

ITEM 3. Amend paragraph 137.2(1)“c” as follows:

c. Trauma nursing course objectives are available from the Department of Public Health, Bureau of Emergency Medical and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the ~~bureau of EMS~~ BETS Web site (www.idph.state.ia.us/ems <http://idph.iowa.gov/BETS/Trauma>).

ITEM 4. Amend paragraph 137.2(2)“a” as follows:

a. Physicians, PAs and ARNPs: ~~current ATLS® certification~~ shall comply with education criteria specific to the level for which the trauma care facility is verified according to the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma.

ITEM 5. Amend rule 641—137.3(147A), introductory paragraph, as follows:

641—137.3(147A) Continuing trauma education for Iowa’s trauma system requirements. Continuing trauma education is required every four years of physicians, physician assistants, advanced registered nurse practitioners, registered nurses, and licensed practical nurses who are identified or defined as trauma team members by a trauma care facility and who participate directly in the initial resuscitation of the trauma patient.

ITEM 6. Amend subrule 137.3(1) as follows:

137.3(1) ~~Topics for all or part of the continuing trauma education hours may be recommended to the department by TSAC based on trauma care system outcomes.~~ Specific requirements for continuing trauma education for each provider category are as follows:

a. Physicians, PAs and ARNPs shall comply with education criteria specific to the level for which the trauma care facility is verified according to the “Resources for Optimal Care of the Injured Patient 2014” (6th edition) published by the American College of Surgeons Committee on Trauma.

b. RN and LPN: 16 hours of continuing trauma education is required, with a minimum of 4 hours as formal education.

c. RN and LPN: Sustainment of training using trauma nursing course objectives (2007) recommended by TSAC. Continuing education hours earned sustaining trauma nurse course objectives may be applied to continuing education requirements identified in paragraph 137.3(1)“b.”

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ITEM 7. Rescind and reserve subrules **137.3(2)** to **137.3(4)**.

ITEM 8. Rescind rule 641—137.4(147A) and adopt the following **new** rule in lieu thereof:

641—137.4(147A) Offenses and penalties. Offenses and penalties will be addressed pursuant to 641—Chapter 134, Trauma Care Facility Categorization and Verification.

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ARC 3242C

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby amends Chapter 3, "Broker License," Chapter 4, "Salesperson License," and Chapter 5, "Licensees of Other Jurisdictions and Reciprocity," Iowa Administrative Code.

These amendments are a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input and concern from leadership from the professional association of real estate licensees in regard to how real estate salespersons and brokers from other jurisdictions are being licensed by the Real Estate Commission.

The rules in Chapter 3 describe the general requirements for a real estate broker license. The amendments to Chapter 3 remove old education requirements that have since been updated, update citations to the Iowa Code, and clarify the experience requirements for obtaining a real estate broker license in Iowa. The rules in Chapter 4 describe the general requirements for a salesperson license. The amendments to Chapter 4 remove old education requirements that have since been updated, provide clarification of the current prelicense education requirements, and update citations to the Iowa Code. The rules in Chapter 5 describe the general requirements for real estate licensees in other jurisdictions who wish to obtain a real estate license in Iowa. The amendments to Chapter 5 clarify how salespersons and brokers licensed in other jurisdictions can be licensed in Iowa and update the Commission's Web address.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3065C** on May 24, 2017. A public hearing was held on June 13, 2017, and no comments were received. The adopted amendments are identical to those published under Notice.

These rules are subject to waiver or variance pursuant to 193—Chapter 5.

The Real Estate Commission adopted these amendments on June 30, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 193E—3.1(543B) as follows:

193E—3.1(543B) General requirements for broker license. An applicant for a broker license must meet all requirements of Iowa Code section 543B.15.

3.1(1) and **3.1(2)** No change.

3.1(3) An applicant for a real estate broker's license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction,

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may be denied a license by the commission on the grounds of the conviction. "Conviction" is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

3.1(4) No change.

3.1(5) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least 72 classroom hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.

3.1(6) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7), an applicant for licensure as a real estate broker must have been a an actively licensed real estate salesperson actively engaged in real estate for a period of at least 24 months preceding the date of application; or shall have had experience as a former broker or salesperson or otherwise substantially equivalent experience to that which a licensed real estate salesperson would ordinarily receive during a period of 24 months.

a. An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in a another state or jurisdiction ~~which has a current reciprocal licensing agreement or memorandum in place with Iowa~~, or a combination of both, to satisfy the experience requirement for a broker license only if the former Iowa salesperson or reciprocal applicant from another state or jurisdiction ~~salesperson~~ was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

b. For waiver of commission rules or substitution of experience, see Iowa Code section 543B.15 and the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5.

ITEM 2. Amend rule 193E—3.2(543B) as follows:

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker shall be conducted by the commission or its authorized representative.

3.2(1) No change.

3.2(2) Requests for ~~substitution~~, waiver, or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver, or variance of commission rules or of the qualifications for licensure as permitted by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the commission has granted ~~substitution~~, a waiver, or variance of prelicense education, the letter granting ~~substitution~~, the waiver, or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

3.2(4) and **3.2(5)** No change.

ITEM 3. Amend rule 193E—3.3(543B), introductory paragraph, as follows:

193E—3.3(543B) Application for broker license. An applicant who passes a qualifying broker examination will receive a passing score report and an application form for licensure from the testing

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service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application, license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 4. Amend subrule 3.5(1) as follows:

3.5(1) Application forms. Application forms for renewal of a broker's license may be obtained from the commission office or may be available found on the commission's Web site. Brokers may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to brokers in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a broker to receive an application form or reminder shall not excuse the broker from the requirement to timely renew.

ITEM 5. Rescind subrule **3.6(4)**.

ITEM 6. Renumber subrule **3.6(5)** as **3.6(4)**.

ITEM 7. Amend subrule 4.1(9) as follows:

4.1(9) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the ~~salesperson prelicense education~~ 60 classroom or computer-based hours of real estate principles and practices during the 12 months prior to taking the examination. The applicant must also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The applicant must complete all the required prelicense education during the 12 months prior to the date of application.

ITEM 8. Rescind subrules **4.1(10)** and **4.1(11)**.

ITEM 9. Amend rule 193E—4.2(543B) as follows:

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson shall be conducted by the commission or its authorized representative.

4.2(1) No change.

4.2(2) Requests for ~~substitution~~, waiver or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver, or variance of the qualifications for ~~license~~ licensure as required by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant's prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a ~~substitution~~, waiver or variance is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that ~~required prelicense education has~~ 60 classroom or computer-based hours of real estate principles and practices have been completed. If the commission has granted a ~~substitution~~, waiver, or variance of prelicense education, the letter granting the ~~substitution~~, waiver, or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

4.2(4) No change.

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ITEM 10. Amend rule 193E—4.3(543B), introductory paragraph, as follows:

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying salesperson examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 11. Amend subrule 4.4(2) as follows:

~~4.4(2) All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement: Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.~~

<u>Developing Professionalism and Ethical Practices</u>	12 hours
<u>Buying Practices</u>	12 hours
<u>Listing Practices</u>	12 hours
<u>Law Update</u>	8 hours
<u>Ethics</u>	4 hours
<u>Electives</u>	24 hours

ITEM 12. Amend subrule 4.5(1) as follows:

4.5(1) Application forms. Application forms for renewal of a salesperson license may be obtained from the commission office or may be ~~available~~ found on the commission’s Web site. Salespersons may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to salespersons in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a salesperson to receive an application form or reminder shall not excuse the salesperson from the requirement to timely renew.

ITEM 13. Rescind subrule **4.6(4)**.

ITEM 14. Renumber subrule **4.6(5)** as **4.6(4)**.

ITEM 15. Amend rule 193E—5.1(543B) as follows:

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed ~~as a salesperson~~ in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) ~~shall~~ may qualify ~~only~~ for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) ~~shall~~ may qualify ~~only~~ for the same type of broker or broker associate license in Iowa. The person must have met all requirements for an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the requirements, the person shall meet, at a minimum, the requirements for an Iowa salesperson license as provided in 193E—Chapter 4 and shall only qualify for a salesperson license.

5.1(3) No change.

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ITEM 16. Amend rule 193E—5.3(543B) as follows:

193E—5.3(543B) License by Iowa-specific examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the ~~Iowa portion of the~~ real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all requirements for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) and 5.3(4) No change.

ITEM 17. Amend subrule 5.4(7) as follows:

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications. Contact information and a list of states and jurisdictions that have entered into reciprocal licensing agreements or memorandums with Iowa, including addresses and telephone numbers, are available on the commission's Web site located at <http://www.state-ia.us/iree> <https://plb.iowa.gov/>.

ITEM 18. Amend rule 193E—5.6(543B), introductory paragraph, as follows:

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement requirements for a real estate broker license or salesperson license issued by examination shall apply to a license issued by reciprocity, ~~except that the reinstatement fee is \$25 with an original reciprocal license application.~~

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ARC 3243C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 161A.4(1) and 208.26, the Division of Soil Conservation and Water Quality hereby amends Chapter 1, "Regions of Representation for State Soil Conservation Committee Farmer Members," Chapter 2, "Operation of State Soil Conservation Committee," Chapter 3, "Contested Case Proceedings and Practice," Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Chapter 11, "Conservation Practices Revolving Loan Fund," Chapter 12, "Water Protection Practices—Water Protection Fund," Chapter 20, "Iowa Soil 2000 Program," Chapter 21, "Water Quality Protection Projects—Water Protection Fund," Chapter 22, "Soil and Water Resource Conservation Plans," Chapter 30, "Agricultural Drainage Wells—Alternative Drainage System Assistance Program," Chapter 40, "Coal Mining," Chapter 50, "Iowa Abandoned Mined Land Reclamation Program," and Chapter 60, "Minerals Program," Iowa Administrative Code.

These amendments change the name of the State Soil Conservation Committee to the State Soil and Water Quality Committee and adopt a definition of "edge-of-field practice." A mineral mining license being renewed will be valid for two years instead of one and will cost \$20 instead of \$10.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3086C** on June 7, 2017. One comment was received in support of the change in the time period for the mineral mining license. The adopted amendments are identical to the noticed amendments.

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

After analysis and review of this rule making, no adverse impact on jobs has been found. These amendments are intended to implement 2017 Iowa Acts, House File 617. These amendments will become effective September 6, 2017. The following amendments are adopted.

ITEM 1. Amend **27—Chapter 1**, title, as follows:
REGIONS OF REPRESENTATION FOR STATE SOIL CONSERVATION
AND WATER QUALITY COMMITTEE FARMER MEMBERS

ITEM 2. Amend rule 27—1.1(161A) as follows:

27—1.1(161A) Scope. This chapter delineates the regional boundaries from which the six farmer members of the state soil conservation and water quality committee shall be appointed. The three members representing the mining industry, cities and towns, and tree farming shall be selected from the state at large.

ITEM 3. Amend rule 27—1.2(161A), introductory paragraph, as follows:

27—1.2(161A) Regions of representation. The farmer members of the state soil conservation and water quality committee shall be selected from the northwest, north central, northeast, southwest, south central, and southeast regions of the state.

ITEM 4. Amend **27—Chapter 2**, title, as follows:
OPERATION OF STATE SOIL CONSERVATION AND WATER QUALITY COMMITTEE

ITEM 5. Amend rule 27—2.1(161A) as follows:

27—2.1(161A) Scope. This chapter governs the conduct of business by the state soil conservation and water quality committee. Rule-making proceedings held as part of committee meetings and contested case proceedings involving the committee are consistent with Iowa Code chapter 17A.

ITEM 6. Amend subrule 2.4(3) as follows:

2.4(3) Distribution of agenda. Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requester desires to be on the division's mailing list to receive the agenda for all meetings of the state soil conservation and water quality committee.

ITEM 7. Amend rule 27—3.2(17A,161A), definition of "Committee," as follows:

"Committee" means the state soil conservation and water quality committee established at Iowa Code section 161A.4.

ITEM 8. Amend rule 27—10.10(161A) as follows:

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

ITEM 9. Amend rule 27—10.20(161A), definitions of "Committee" and "Soil conservation practices," as follows:

"Committee" or "state soil conservation and water quality committee" means the committee established by Iowa Code section 161A.4 as the policymaking body of the division of soil conservation and water quality.

"Soil conservation practices" means any of the practices which serve to reduce erosion of soil by wind and water on land used for agricultural or horticultural purposes and approved by the state soil conservation and water quality committee.

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

ITEM 10. Adopt the following **new** definition of “Edge-of-field practice” in rule 27—10.20(161A): “*Edge-of-field practice*” means a wetland, bioreactor, or saturated buffer.

ITEM 11. Amend rule 27—10.33(161A), introductory paragraph, as follows:

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the district commissioners or the division of soil conservation and water quality. Appeals to the state soil conservation and water quality committee may be made by the district, a landowner or a farm operator following a review by the division director or the director’s designee.

ITEM 12. Amend subrule 10.33(3) as follows:

10.33(3) Appeal to the state soil conservation and water quality committee. In those cases where the district, landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to maintain, repair or reconstruct a temporary or permanent practice covered by a maintenance/performance agreement, the district, landowner, or farm operator may appeal the division’s decision to the state soil conservation and water quality committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make the appeal to the state committee in writing within 30 days following completion of the division’s review.

ITEM 13. Amend subrule 10.60(4) as follows:

10.60(4) Mandatory. The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation and water quality committee.

ITEM 14. Amend rule 27—11.10(161A) as follows:

27—11.10(161A) Authority and scope. These rules provide procedures and standards to be followed by the division of soil conservation and water quality, department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in administering the conservation practices revolving loan fund and the standards and guidelines to which the soil and water conservation districts shall conform in all contracts under this program.

ITEM 15. Amend rule 27—12.10(161C) as follows:

27—12.10(161C) Authority and scope. This chapter establishes procedures and standards to be followed by soil and water conservation districts and the division of soil conservation and water quality of the department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing water protection practices through the water protection fund created in Iowa Code section 161C.4. This account shall be used to establish water protection practices with individual landowners.

ITEM 16. Amend rule 27—12.75(161C) as follows:

27—12.75(161C) Priority watersheds and water quality problems. Practices listed in rule 27—12.73(161C) will be eligible for landowner reimbursement from water protection practices funds only for watersheds and water quality problems designated by soil and water conservation district commissioners and approved by the state soil conservation and water quality committee.

12.75(1) District designation. Districts shall submit to the division the description of high priority watershed(s) or water quality problems within their district to be designated as eligible for practices listed in rule 27—12.73(161C).

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

12.75(2) *State soil conservation and water quality committee evaluation.* The state soil conservation and water quality committee shall examine the district submission under 12.75(1) with respect to the following criteria.

- a. The public value and current use of the water resource to be protected.
- b. The nature, extent and severity of the water quality problem to be addressed.
- c. The degree to which the district designation focuses practice application in a manner that will achieve a water quality benefit from the funds available.

12.75(3) *Review time limit.* The state soil conservation and water quality committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.75(4) *Disapproval of designation.* In the event of disapproval of district designation, the state soil conservation and water quality committee shall inform the district of the reason for disapproval.

ITEM 17. Amend rule 27—12.85(161C) as follows:

27—12.85(161C) *Special practice and cost-share procedures eligibility.* Districts may submit requests to establish eligible practices, develop cost-share procedures, experiment with new conservation practices and explore new technologies with approval of the state soil conservation and water quality committee.

12.85(1) *District designation.* Districts shall submit to the SSCC state soil conservation and water quality committee the description of their intentions, which could include:

- a. Type of practice.
- b. Cost-share rate.
- c. Resource to be protected.
- d. Estimated cost.
- e. Landowner interest.
- f. Technology to be addressed.

12.85(2) *State soil conservation and water quality committee evaluation.* The state soil conservation and water quality committee shall examine the district submission under 12.85(1) with respect to the following criteria.

- a. The public and current use of the resource to be protected.
- b. The nature, extent, and severity of the problem to be addressed.
- c. The degree to which the request focuses practice or technology application in a manner that will achieve a soil erosion or water quality benefit from the funds available.
- d. Whether a specification can be developed by NRCS or DNR for the new technology or practice.

12.85(3) *Review time limit.* The state soil conservation and water quality committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.85(4) *Disapproval of designation.* In the event of disapproval of district requests, the state soil conservation and water quality committee shall inform the district of the reason for disapproval.

This rule is intended to implement Iowa Code chapters 161A and 161C.

ITEM 18. Amend rule 27—20.10(161A) as follows:

27—20.10(161A) *Authority and scope.* This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the Iowa Soil 2000 Program goal of satisfactorily controlling erosion on all Iowa land. It also establishes standards and guidelines which the soil and water conservation districts will use in fulfilling their responsibilities under this program.

ITEM 19. Amend rule 27—21.10(161A) as follows:

27—21.10(161A) *Authority and scope.* This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee

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

in implementing water quality protection projects through the water protection fund created in Iowa Code chapter 161C. These projects will protect the state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants. Water protection fund resources will provide administrative, operational, and personnel support for the projects and funds for management and structural measures to address identified water quality problems.

ITEM 20. Amend subrule 21.20(1), introductory paragraph, as follows:

21.20(1) *Announcement of application opportunities.* The state soil conservation and water quality committee will announce to districts and other interested parties the opportunity to submit applications for projects. The announcement will state:

ITEM 21. Amend rule 27—21.40(161A) as follows:

27—21.40(161A) Proposal review. Part 4 establishes the process that the state soil conservation and water quality committee will follow in reviewing the applications submitted, and selecting which, if any, will be funded.

21.40(1) The state soil conservation and water quality committee will give consideration to the following criteria in evaluating the project proposals submitted:

- a. The water resource to be protected.
- b. The nature, extent and severity of water quality issues identified and targeted for correction.
- c. The nature and variety of the proposed project measures.
- d. The level of financial contribution requested for the project.
- e. The cost-effectiveness of the proposed project measures.
- f. Agency, organization and landowner participation.
- g. The public benefits projected.
- h. The likelihood of project success within the projected time frame.

21.40(2) Proposal presentation. The state soil conservation and water quality committee may, at its discretion, ask the project applicant to make a formal presentation concerning the application or provide additional information.

21.40(3) Review assistance. The state soil conservation and water quality committee may receive assistance in the evaluation of project applications from division staff or other agencies.

21.40(4) Negotiation. The state soil conservation and water quality committee may negotiate any part of the proposal with the applicant prior to project selection.

21.40(5) Project selection. Projects selected will be funded on an annual basis. Funding for additional years of the projects will be provided on the basis of satisfactory progress and available funds of the water protection fund.

21.40(6) Notification. The state soil conservation and water quality committee will inform each applicant of the final determination with respect to ~~their~~ the applicant's application.

ITEM 22. Amend rule 27—21.70(161A), introductory paragraph, as follows:

27—21.70(161A) Annual project review, continuation, amendment and termination. Part 7 describes procedures that the state soil conservation and water quality committee will follow to review annual progress for each project and to approve continuation, amend, or terminate them.

ITEM 23. Amend subrule 21.70(1), introductory paragraph, as follows:

21.70(1) *Annual review.* The state soil conservation and water quality committee and district(s) will review each project annually. Upon completion of the annual review, the committee will inform the district(s) of their findings. Based on their findings, the committee will do one or more of the following:

ITEM 24. Amend rule 27—22.10(161A) as follows:

27—22.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee

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

in implementing the development of soil and water resource conservation plans in all soil and water conservation districts in Iowa and developing a comprehensive soil and water resource conservation plan for the state of Iowa. It establishes standards and guidelines which the soil and water conservation districts will use in fulfilling their responsibilities under this program.

ITEM 25. Amend subrule 22.40(2) as follows:

22.40(2) Approval. The district shall submit their completed plan or amendment to the state soil conservation and water quality committee for approval. If found to meet the content requirements of rule 27—22.30(161A), the state soil conservation and water quality committee shall approve the plan or amendment by motion at their regularly scheduled meeting. The approved plan will be signed by the administrator of the division.

ITEM 26. Amend rule 27—30.10(161A,460) as follows:

27—30.10(161A,460) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the agricultural drainage wells — alternative drainage system assistance program. This program provides financial assistance for closing agricultural drainage wells and constructing alternative drainage systems that are part of a drainage district. These rules establish the assistance program, provide for the allocation of assistance funds, and establish procedures and standards for eligibility to receive assistance under the program.

ITEM 27. Amend rule 27—30.31(161A,460) as follows:

27—30.31(161A,460) Other funds. Funds for the agricultural drainage wells—alternative drainage system assistance program may be from moneys available to and obtained or accepted by the division or the state soil conservation and water quality committee from the United States or private sources for placement in the fund.

ITEM 28. Amend paragraph **40.99(1)“c”** as follows:

c. An appeal to the committee may be initiated by the division or a party of record by filing with the administrator, and serving on all parties, a written statement captioned “Notice of Appeal to the State Soil Conservation and Water Quality Committee,” which shall also state the number of the notice or order involved in the hearing and the docket number assigned by the administrator to the contested case proceeding.

ITEM 29. Amend rule 27—50.10(207) as follows:

27—50.10(207) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee, to participate in the federal abandoned mined land and reclamation program as established in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, and Iowa Code chapter 207.

These rules will also provide for the establishment of a state abandoned mined land fund for use in conducting the Iowa abandoned mined land reclamation program, and will also establish authority for the division to request, receive and administer grant moneys for use in the program.

ITEM 30. Amend rule 27—60.10(208) as follows:

27—60.10(208) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee, in implementing the requirements of Iowa Code chapter 208 to ensure reclamation upon completion of mining operations for gypsum, clay, stone, sand, gravel, and other ores or mineral solids, except coal.

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

Information and forms can be obtained on the department's Web site or by contacting: Mines and Minerals Bureau, Division of Soil Conservation and Water Quality, Wallace State Office Building, Des Moines, Iowa 50319. Telephone: (515)242-5003 or ~~(515)281-6142~~ (515)281-4246.

ITEM 31. Amend rule 27—**60.12(208)**, definition of "Committee," as follows:
 "Committee" means the state soil conservation and water quality committee.

ITEM 32. Amend subrules 60.20(2) to 60.20(4) as follows:

60.20(2) Fees. Licensing and license renewal fees are established by Iowa Code section 208.7 at \$50 for ~~a new~~ an initial license and ~~\$10~~ \$20 for a license renewal.

60.20(3) License term and expiration. A license shall be maintained by the operator until all sites have been properly reclaimed or transferred to another licensed operator.

The initial license shall expire on December 31 of the year in which the license was obtained. A license for renewal shall expire on December 31 of the second year in which the license was issued. Any applications for renewal received within 30 days of the expiration date shall be accepted as renewals for the previous license. New licenses obtained after November 1 shall remain valid for a period to include the next calendar year or years.

60.20(4) License renewal. Any operator who fails to renew the mining license within the 30-day period following the expiration deadline established in subrule 60.20(3) will be required to apply for a ~~new~~ an initial license. Failure to renew a license within 30 days after official notice will invalidate all registrations.

ITEM 33. Amend subrule 60.70(2) as follows:

60.70(2) Underground mine maps. The state geologist shall provide the division with copies of each map and map extension received pursuant to Iowa Code section ~~460A.12~~ 456.11.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3244C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation and Water Quality hereby amends Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

These amendments provide for the recall of water protection practices funds and the reallocation to districts that have the immediate ability to use the funds. Cost-share funding will be authorized for access control to pay the fencing cost of keeping livestock out of intermittent streams. The practice identified as "STRIPS" is specifically identified as an allowable cost-share practice as a contour buffer strip or filter strip.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3112C** on June 7, 2017. No comments were received from the public. The adopted amendments are identical to the noticed amendments.

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

These amendments are intended to implement Iowa Code section 161A.2.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 12.51(3) as follows:

12.51(3) Supplemental allocations. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. ~~The allocation to any district will be the lesser amount of~~ Factors to be considered in making a supplemental allocation to a district include:

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

a. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; ~~or and~~

b. ~~Three~~ Whether or not the proposed supplemental allocation exceeds three times the original allocation to the district.

ITEM 2. Amend subrule 12.51(5) as follows:

12.51(5) *Woodland, native grass and forbs fund.* Twenty-five percent of the funds and any additional appropriations for reforestation will be allocated to districts.

a. *Original allocation.* ~~Seventy-five percent of the~~ The funds distributed to this program will be allocated equally to the 100 soil and water conservation districts at the beginning of each fiscal year.

b. *Supplemental allocation.* The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. ~~The allocation to any district will be the lesser amount of~~ Factors to be considered in making a supplemental allocation to a district include:

(1) The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; ~~or and~~

(2) ~~Three~~ Whether or not the proposed supplemental allocation exceeds three times the original allocation to the district.

c. *Eligibility of soil and water conservation districts for supplemental allocation.* For a district to qualify for a supplemental allocation, the district must meet the following requirement: ~~ninety~~ seventy-five percent of the woodland, native grass and forbs funds shall be obligated to landowners.

ITEM 3. Adopt the following **new** subrule 12.51(7):

12.51(7) *Recall and reallocation of funds by division director.* If districts are not demonstrating an ability to use available funding, the division director may recall these funds and reallocate the funds to a district that has an immediate need for additional funding.

ITEM 4. Adopt the following **new** paragraph **12.63(3)“c”**:

c. Tracts of land enrolled in the United States Department of Agriculture’s Conservation Reserve Program (CRP) that have more than 90 days left on the contract, except for woodland establishment, management and protection practices, and native grass and forb establishment practices under rule 27—12.82(161C) shall not qualify.

ITEM 5. Amend subrules 12.72(2) and 12.72(4) as follows:

12.72(2) Contour buffer strips. The practice includes science-based trials of row crops integrated with prairie strips (STRIPS) planted on contour.

12.72(4) Filter strips. The practice includes science-based trials of row crops integrated with prairie strips (STRIPS) planted at the foot slope.

ITEM 6. Adopt the following **new** subrule 12.72(10):

12.72(10) Access control. The practice involves fencing an area to exclude livestock from intermittent streams (defined on U.S. Geological Survey topographic maps as “3 dot” blue-line streams) or larger streams. Eligibility for cost-share assistance extends only to fencing required to implement this practice, but does not extend to fences along roads or land boundaries.

ITEM 7. Amend subrule 12.77(1) as follows:

12.77(1) *Cost-share rates.* Cost-share rates for practices designated in rule 27—12.72(161C) shall be 50 percent of the eligible or estimated cost of installation, whichever is less, except for contour buffer strips, ~~and field borders, and access control.~~ Cost-share rates for 12.72(2), contour buffer strips, and 12.72(3), field borders, shall be a one-time payment of 50 percent of the eligible or estimated cost of installation, whichever is less, up to \$25 per acre. Cost-share rates for 12.72(10), access control, shall include a one-time payment of up to \$200 per acre. In addition, fencing systems used to implement access control are eligible for 50 percent of the eligible or estimated cost, whichever is less, not to exceed \$14 per rod for permanent fencing. Cost-share assistance for this practice may not be provided on the same acres that already received a cost-share payment through the buffer initiative program.

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

ITEM 8. Amend paragraph **12.84(4)“a”** as follows:

a. 75 Seventy-five percent of the eligible or estimated cost, whichever is less, not to exceed \$450 \$600 per acre, for tree planting including the following:

(1) to (4) No change.

ITEM 9. Amend **27—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 161A and 161C; and Iowa Code section ~~99E.34 and 1989 Iowa Acts, chapter 236~~ 455A.19.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3245C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 316.9, the Iowa Department of Transportation, on July 12, 2017, adopted amendments to Chapter 111, “Real Property Acquisition and Relocation Assistance,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the April 26, 2017, Iowa Administrative Bulletin as **ARC 3035C**.

Iowa Code section 316.9 requires the Department to adopt administrative rules to ensure compliance with federal Uniform Relocation Assistance and Real Property Acquisition Policies (Uniform Act). To comply with this rule-making requirement, the Department adopts by reference Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance.” This manual, which is published by the Department and available on the Department’s Web site at www.iowadot.gov, is based on federal regulations, 49 CFR Part 24, which implement the Uniform Act.

This rule making adopts a new edition of Section II of the manual. Section II is revised to reflect changes made to 49 CFR Part 24. The revised federal regulations include some technical changes. Some of the more significant changes are:

- Occupancy requirement for homeowner’s reduction and replacement housing payment monetary limit increase.
 - o Reduction of 180-day occupancy to 90-day occupancy.
 - o Increase of 90-day homeowner payment from \$22,500 to \$31,000.
- Replacement housing payment limit increase for tenants.
 - o Monetary increase for 90-day tenants from \$5,250 to \$7,200.
- Moving and related expenses.
 - o Increase in business reestablishment payment monetary limit from \$10,000 to \$25,000.
 - o Monetary increase in fixed payments in lieu of actual moving and reestablishment expenses from \$20,000 to \$40,000.
- Increase in the appraisal waiver limit from \$10,000 to \$25,000.

A marked-up draft of the changes to this manual is available at <http://www.iowadot.gov/rightofway/manuals.html>.

Other amendments correct an Iowa Code citation and add a reference to the Department’s Web site.

These rules do not provide for 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.

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code section 316.9.

These amendments will become effective September 6, 2017.

TRANSPORTATION DEPARTMENT[761](cont'd)

The following amendments are adopted.

ITEM 1. Amend rule 761—111.1(316), introductory paragraph, as follows:

761—111.1(316) Acquisition and relocation assistance manual. The ~~April 2006~~ September 2017 edition of Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance” is adopted by reference.

ITEM 2. Amend paragraph **111.1(2)“d”** as follows:

d. In accordance with Iowa Code subsection ~~316.9(4)~~ 316.9(3), an entity that provides relocation assistance benefits for any program or project is required to provide an appeal process, regardless of the source of funding for the program or project. The appeal process provided shall not diminish the rights of the appellant or the scope of the appeal as described in Section II.

ITEM 3. Amend subrule 111.1(3) as follows:

111.1(3) Availability of manual. Copies of the manual or portions thereof are available from the Office of Right of Way, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or on the department’s Web site at www.iowadot.gov.

[Filed 7/12/17, effective 9/6/17]

[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3246C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code chapter 476 and section 17A.4, the Utilities Board (Board) gives notice that on July 14, 2017, the Board issued an order in Docket No. RMU-2016-0019, In re: Review of Energy Efficiency Planning and Reporting for Non-Rate-Regulated Gas and Electric Utilities Rules [199 IAC Chapter 36], “Order Adopting Amendments,” amending the Board’s energy efficiency planning rules in Chapter 36 for utilities not required to be rate-regulated.

Notice of Intended Action was published in the January 18, 2017, Iowa Administrative Bulletin as **ARC 2910C**. Two parties, the Iowa Association of Electric Cooperatives (IAEC) and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed comments. After the Notice of Intended Action was published, 2017 Iowa Acts, Senate File 331, which amends some of the energy efficiency reporting requirements, was signed into law. On June 6, 2017, the Board issued an order in Docket No. RMU-2016-0019, requesting comments on proposed amendments that incorporated both stakeholder comments and reflected the enactment of 2017 Iowa Acts, Senate File 331. The Board also scheduled a meeting on June 26, 2017, for interested parties to discuss the impact of Senate File 331 on Chapter 36.

The Environmental Law & Policy Center, Iowa Environmental Council, Iowa Association of Municipal Utilities, IAEC, and OCA filed comments in response to the Board’s June 6, 2017, order. All of those parties were also represented at the June 26, 2017, meeting.

The Board has modified several of the amendments proposed in the Notice of Intended Action, based on comments received, in writing and during the June 26, 2017, meeting, and on the enactment of Senate File 331. The Board’s order approving this Adopted and Filed rule making describes the comments received and any amendments the Board adopted based on those comments or on the enactment of Senate File 331.

The order approving this Adopted and Filed rule making can be found on the Board’s Electronic Filing System Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0019.

After analysis and review of the rule making, the Board concludes that these amendments will not have a detrimental effect on jobs in Iowa.

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These amendments are intended to implement Iowa Code section 476.6 as amended by 2017 Iowa Acts, Senate File 331, and section 476.62.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Amend **199—Chapter 36**, title, as follows:

ENERGY EFFICIENCY PLANNING AND REPORTING
FOR ~~NON-RATE-REGULATED~~ NATURAL GAS AND ELECTRIC UTILITIES NOT REQUIRED
TO BE RATE-REGULATED

ITEM 2. Amend rule 199—36.1(476) as follows:

199—36.1(476) ~~Non-rate-regulated utilities~~ Utilities not required to be rate-regulated. Each ~~non-rate-regulated~~ natural gas and electric utility not required to be rate-regulated shall file energy efficiency plans and reports as provided in this chapter.

ITEM 3. Amend rule 199—36.2(476) as follows:

199—36.2(476) Definitions. The following words and terms, when used in this chapter, shall have the following meanings:

“*Annual*” means during each calendar year.

“*Demand savings*” means the change in the rate of energy usage measured over a period, which period shall be specified.

~~“*Dollar savings*” means the reduction in the dollars spent on natural gas or electricity service by customers and by the utility system as the result of the energy efficiency programs.~~

“*Energy efficiency programs*” ~~means~~ shall include efficiency improvements to a utility infrastructure and system and activities conducted by a utility intended to enable or encourage customers to increase the amount of heat, light, cooling, motive power, or other forms of work performed per unit of energy used. “Energy efficiency programs” also means activities which lessen the amount of heating, cooling, or other forms of work which must be performed, or activities which decrease the cost of providing energy. Examples include, including but are not limited to: energy studies or audits, general information, financial assistance, direct rebates to customers or vendors of energy-efficient products, research projects, direct installation by the utility of energy-efficient equipment, direct or indirect load control, and time-of-use rates, tree planting programs, educational programs, and hot water insulation distribution programs. In the case of a municipal utility, other utilities and departments of the municipal utility shall be considered customers to the same extent that such utilities and departments would be considered customers if served by an electric or natural gas utility that is not a municipal utility.

“*Energy savings*” means the amount of energy not used because of an energy efficiency program, measured in kilowatt-hours (kWh) of electricity, thousands of cubic feet (Mcf) of natural gas, or dekatherms (dth) of natural gas.

“*Filing year*” means the calendar year during which an energy efficiency plan or report is filed.

“*Peak demand savings*” means the change in the rate of energy use at the time of the utility’s highest annual use, measured in kilowatts (kW), thousands of cubic feet per day (Mcf/day) of natural gas, or dekatherms per day (dth/day) of natural gas.

“*Year*” means calendar year.

ITEM 4. Amend rule 199—36.3(476) as follows:

199—36.3(476) ~~Schedule of filings~~ Initial energy efficiency plan filing. ~~On or before July 1, 1992, each non-rate-regulated utility shall file its initial biennial energy efficiency plan with the board for the period January 1, 1992, through December 31, 1993. Each non-rate-regulated utility shall file subsequent biennial energy efficiency plans on or before July 1, 1994, and succeeding even-numbered years. Each utility not required to be rate-regulated shall offer energy efficiency programs to its customers through an energy efficiency plan. The utility shall assess the maximum potential energy and capacity savings available through cost-effective energy efficiency measures and programs; establish an energy efficiency~~

UTILITIES DIVISION[199](cont'd)

goal; and establish cost-effective energy efficiency programs designed to meet the energy efficiency goal. Each utility's energy efficiency plan shall include a description of the procedures or criteria used to continue current and to select future energy efficiency programs for implementation.

ITEM 5. Rescind and reserve rule ~~199—36.4(476)~~.

ITEM 6. Amend rule 199—36.5(476) as follows:

~~199—36.5(476) Energy efficiency report and plan update requirements. Each utility's energy efficiency plan shall include the following: Each utility not required to be rate-regulated shall file a biennial report containing the results of its energy efficiency programs on or before December 31 of each odd-numbered year. The utility may submit any forms or reports required by and prepared for a federal agency in lieu of this report.~~

~~36.5(1) A report on the results of all energy efficiency programs the utility has implemented and completed during each of the two calendar years immediately preceding the filing year. Summary information for energy efficiency programs implemented in earlier years and completed prior to the filing year may also be included in the original plan. For each program implemented during the past two calendar years and completed, the following information shall be provided: The report on the results of the utility's energy efficiency programs in place during each of the two previous completed calendar years shall include:~~

~~a. A description of the program, including the purpose or goal of the program, and the energy-using facilities, equipment, or customer behavior that the program was designed to change;~~

~~b. a. Annual Total incremental annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program for all energy efficiency programs by customer class for each year;~~

~~e. b. A description of the method(s) for determining the annual energy savings, peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods Total peak demand savings for any demand response programs by customer class for each year;~~

~~d. Annual number of program participants;~~

~~e. c. Annual and total costs of the program Total reporting year incremental costs for all energy efficiency programs by customer class for each year;~~

~~f. d. Date the program was initiated, terminated, and the reason for termination Total reporting year incremental costs for any demand response programs by customer for each year; and~~

~~g. e. Other relevant information.~~

~~36.5(2) A report on the results and projected results of all energy efficiency programs the utility is continuing or commencing in the filing year or the year following. For those programs continuing, the report shall describe the program results from the two calendar years immediately preceding the filing year and projected results for the filing year and the year following. Summary information for energy efficiency programs implemented in earlier years but still underway may also be included in the original plan. For those programs commencing in the filing year or the year following, the report shall describe projected implementation and results of programs for each of the two years, as well as an optional description of program results beyond the two years. For each program under this subrule, the following information shall be provided: Each utility shall document and maintain any updates or amendments to the utility's initial energy efficiency plan including the goals and the projected results of all energy efficiency programs the utility plans to implement.~~

~~a. A description of the program, including the purpose or goal of the program and the energy-using facilities, equipment, or customer behavior that the program is designed to change;~~

~~b. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;~~

~~e. Projected annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;~~

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d.—A description of the method(s) for determining the annual energy savings, peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods;

e.—A description of the method(s) for projecting the annual energy savings, peak demand savings, nonpeak demand savings, annual dollar savings, whether engineering estimates, surveys, metering, or other methods;

f.—Annual number of program participants and annual estimated number of program participants;

g.—Annual and total costs of the program;

h.—Estimated annual and total cost of program;

i.—Date the program was initiated and planned termination dates; and

j.—Other relevant information.

ITEM 7. Amend rule 199—36.6(476) as follows:

199—36.6(476) Program selection criteria Joint filing of initial energy efficiency plans or energy efficiency reports. Each utility's plan shall include a description of the procedures or criteria used to continue current and to select future energy efficiency programs for implementation. A utility may file its initial energy efficiency plan or energy efficiency report jointly with other utilities not required to be rate-regulated or their agents. A joint plan or report shall contain the information required by rule 199—36.3(476) or 199—36.5(476) for each utility participating in the joint plan or report, whether jointly filed or individually filed. If a plan or report is filed jointly for several utilities by a person acting as an agent for the utilities, this information for each utility shall be separately identified. The agent shall state to the board the authority to act on behalf of the utilities.

ITEM 8. Amend rule 199—36.7(476) as follows:

199—36.7(476) New Structure energy conservation standards. A utility providing natural gas or electric service shall not provide such service to any structure completed after April 1, 1984, unless the owner or builder of the structure has certified to the utility that the building conforms to the energy conservation requirements adopted under 661—16.801(103A) and 661—16.802(103A) 661—Chapter 303. If this compliance is already being certified to a state or local agency, a copy of that certification shall be provided to the utility. If no state or local agency is monitoring compliance with these energy conservation standards, the owner or builder shall certify that the structure complies with the standards by signing a form provided by the utility. No certification will be required for structures that are not heated or cooled by electric service, or are not intended primarily for human occupancy governed by 661—Chapter 303.

[Filed 7/11/17, effective 9/6/17]

[Published 8/2/17]

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ARC 3247C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 21, "Unemployment Insurance Services Division," Chapter 22, "Employer Records and Reports," Chapter 23, "Employer's Contribution and Charges," Chapter 24, "Claims and Benefits," and Chapter 25, "Benefit Payment Control," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development.

Notice of Intended Action for these amendments was published in the May 24, 2017, Iowa Administrative Bulletin as **ARC 3070C**. No comments were received. The Notice was on the agenda of

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

the Administrative Rules Review Committee (ARRC) meeting held on June 13, 2017. No questions or comments were received during this public meeting of the ARRC. This Adopted and Filed rule making differs from the Notice of Intended Action. The proposed amendments to subrules 22.3(4) and 22.3(6) were not adopted by the Department; amendments to those subrules are now proposed in **ARC 3138C**, a Notice of Intended Action published in the June 21, 2017, Iowa Administrative Bulletin. Additionally, paragraph 21.1(3)“c” in Item 1 and the amendments to paragraph 24.9(2)“b” in Item 13 and to subrule 24.31(2) in Item 16 have been revised.

This rule making does not have a fiscal impact on the State of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

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

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Rescind rule 871—21.1(96) and adopt the following **new** rule in lieu thereof:

871—21.1(96) Unemployment insurance services division. The primary responsibility of the unemployment insurance services division is to administer the provisions of the Iowa employment security law and related federal programs in accordance with pertinent laws, regulations, and policies. Attorneys who report to the administrator of the unemployment insurance services division perform the legal services for the division pursuant to Iowa Code section 96.17, which empowers the division to employ attorneys to represent it and give advice on all matters coming before it in conjunction with the administration of Iowa Code chapter 96. The division administers the payment of job insurance benefits to eligible individuals, determines which employers are subject to the state and federal laws enacted in this area, supervises the collection of taxes from these employers, and oversees a program to control the quality of benefit payment and revenue collection. These functions are performed by the following bureaus:

21.1(1) Benefits bureau. The benefits bureau determines the eligibility of individuals claiming unemployment insurance. In addition, the bureau also processes unemployment compensation for federal employees (UCFE), unemployment insurance for ex-service members (UCX), claims for trade readjustment assistance (TRA), voluntary shared work (VSW), and disaster unemployment assistance (DUA). It is also responsible for payments of other special federal unemployment insurance benefits as agreed to by the United States Department of Labor and the state of Iowa.

a. The bureau is responsible for screening all employer protests and investigates all labor dispute protests and issues appropriate decisions. This bureau determines individuals' eligibility on disputed claims for unemployment insurance benefits based on Iowa employment security law and Iowa administrative rules and issues a determination. The bureau reviews decisions that determine which employers will receive charges on claims for unemployment insurance benefits and investigates claims for missing wages. The bureau performs fact-finding interviews with claimants and employers to resolve issues discovered by recording the responses the claimant provides to questions asked in the weekly continued claim certification process. The bureau issues supplemental benefit payments due to misreported earnings or eligibility disqualifications. It also responds to communications involving technical matters related to unemployment insurance and corrects necessary records and the database due to subsequent appeal decisions which reverse or modify the prior decision issued on a claim.

b. The bureau oversees special claims for processing, which include claims for UCFE, UCX, TRA, VSW, DUA, and any other federal unemployment insurance programs. The bureau also administers training extension benefits (TEB), alternate base period (ABP), business closing claims, and department-approved training (DAT). The bureau computes and authorizes payments due, maintains needed records, and makes adjustments or redeterminations as applicable. This bureau is also responsible for processing initial interstate claims, assisting claimants in calling in their continued claims for payment, notifying employers of claim filings, processing overpayments and underpayments, adjudicating issues, processing interstate appeals, and processing combined wage claims. The bureau is responsible for all overpayment billing activity that results in an overpayment setup or refund,

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overpayment decision letter, or overpayment billing notice. The bureau is responsible for overpayment recovery programs, including withholding of Iowa and federal income tax refunds, Iowa lottery prizes, Iowa vendor payments, and the interstate reciprocal overpayment recovery arrangement. The bureau is responsible for the issuance of duplicate benefit payments for lost, stolen, outdated, or returned payments. The bureau authorizes and issues direct deposit transactions, debit cards and special warrants. The bureau verifies financial institution corrections of direct deposit routing and account numbers and updates the database records.

c. The bureau assigns document control information to each paper document, which provides automated electronic workflow routing, document retention criteria, document locating information, and computer updates. The bureau prepares documents and computer records for release to the public under subpoena or waiver provisions and collects record-processing fees.

d. The bureau is responsible for the voluntary income tax withholding program in which state and federal taxes are withheld from unemployment insurance benefits. The bureau is responsible for reporting tax withholdings and taxable unemployment insurance benefits to the Internal Revenue Service, Iowa department of revenue, and claimants.

21.1(2) Tax bureau. The tax bureau is responsible for the maintenance and control of all records of unemployment insurance tax paid by liable employers in the state of Iowa. Taxes collected are deposited in a fund to be subsequently used for benefit payments. The bureau also provides services to other states that request assistance with unemployment insurance enforcement of Iowa-based employers that conduct business in those states.

a. The bureau maintains financial records on employers; assigns rates each year to employers; makes all necessary adjustments to ensure proper charging to employers of benefits chargeable to them; maintains records of employer overpayments and refunds; and maintains the necessary contacts with employers' accountants, attorneys, and the general public to ensure the proper and timely submission of all the required reports to the unemployment insurance services division. The bureau ensures that all unemployment insurance-related documents received are scanned into a document repository.

b. The bureau is responsible for collecting and depositing all money received for contribution reports, delinquent contribution reports, benefit reimbursements, and interest and penalties with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Employers and claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process.

c. It is the bureau's responsibility to contact Iowa and out-of-state employers that do business in Iowa to establish taxpayers' liability under the law; explain the law's provisions; secure information and make determinations pertaining to new accounts, successorships and terminating tax liability; give information and assistance to ensure compliance in the preparation of tax reports; conduct investigations on federal unemployment tax Act (FUTA) discrepancy problems, contractor registration issues, business closings, and claimant requests for omitted wage credits; determine employer/employee and independent contractor relationship issues; assist in fraud investigations; conduct payroll and financial audits; and provide expert-witness testimony at employer liability hearings.

d. The bureau also assigns all field audit work. Information is entered into the automated system which generates materials to be utilized by the field audit staff in conducting an employer inquiry and audit.

21.1(3) Integrity bureau. The integrity bureau consists of three distinct work units: the investigations and recovery unit, the quality control unit, and the benefits collections unit.

a. The investigations and recovery unit is responsible for aggressive action to prevent, detect, investigate and penalize fraudulent actions on the part of employing units and individuals claiming unemployment insurance benefits. The bureau verifies whether aliens are entitled to unemployment insurance and investigates and disqualifies those who are not eligible. The bureau conducts the fictitious-employer detection program to discover employers set up for the purpose of fraudulent activities. The bureau prosecutes violations of the Iowa employment security law, including fraudulent receipt of unemployment insurance benefits, in conjunction with each county attorney in Iowa. The

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bureau investigates and determines whether an unemployment insurance warrant has been forged and whether it should be reissued.

b. The benefits collections unit is responsible for the collection of benefit overpayments, including penalties for fraudulent claims. The bureau is responsible for depositing all money received for benefit overpayments with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process. The bureau analyzes the effectiveness of revenue collection processes for the unemployment insurance program.

c. The quality control unit reports to the integrity bureau chief as the unit works to support the development and execution of corrective action plans for the improvement of the unemployment insurance program. The unit is responsible for the collection and analysis of data pertaining to both the accuracy of unemployment insurance benefit payments and unemployment insurance benefit denial determinations. In addition, the unit is responsible for validation of the unemployment insurance data reports, identification and analysis of risk factors which could threaten the unemployment insurance program, and maintenance of the data-processing capabilities to store and transmit various agency-required reports to the federal government.

This rule is intended to implement Iowa Code chapter 96.

ITEM 2. Amend rule 871—22.6(96) as follows:

871—22.6(96) Employer changing status, address or name required to file report. Any employer who terminates business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice ~~in writing~~ to the department of that fact. The employer shall set forth in such notice the former name, and address of the business, the new name, telephone number and address, the name of any new owner, and the employer's own name, telephone number and present address. Such notification shall be ~~on Form 60-0111, Employer's Notice of Change, or on Form 65-5313, Employer's Delinquency Notice submitted electronically.~~

This rule is intended to implement Iowa Code sections 96.11 and 96.8(4).

ITEM 3. Amend rule 871—22.16(96) as follows:

871—22.16(96) ~~Transmittal~~ Electronic transmittal of contribution payments.

22.16(1) ~~Effect of postmark date.~~ An employing unit or person acting on behalf of one or more employing units must transmit payment of contributions to the department electronically.

a. ~~When the due date for filing reports and paying contributions falls on Saturday, Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are postmarked on or before midnight of the next succeeding business day following such Saturday, Sunday or legal holiday.~~

b. ~~Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.~~

22.16(2) ~~Reserved.~~ Once an employing unit transmits payment of contributions to the department electronically, the employing unit must submit all subsequent payments of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

ITEM 4. Amend rule 871—23.48(96) as follows:

871—23.48(96) ~~Previously covered employers.~~ Previously covered employers. If a contributory employer's account has been properly terminated and the employer is again determined liable or a reimbursable employer again elects to be contributory, the employer shall ~~be treated the same as a newly covered employer, except the employer will not receive a new account number. The employer's wage information prior to the termination will~~

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~~not be used for tax rate or taxable wage calculations~~ receive a new account number and be treated the same as a newly covered employer.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

ITEM 5. Amend paragraph **24.2(1)“a”** as follows:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall ~~report in person to the nearest workforce development center which takes claims and shall~~ file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

~~(1) An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.~~

~~(2) Reserved.~~

ITEM 6. Amend paragraph **24.2(1)“e”** as follows:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

~~(1) The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response weekly continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis on a selected debit card.~~

~~(2) In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.~~

~~(3) The department retains the ultimate authority to choose the method of reporting and payment.~~

ITEM 7. Amend paragraph **24.2(1)“g”** as follows:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a ~~voice response~~ continued claim or claimed benefits as otherwise directed by the department.

~~(1) The weekly voice response continued claim shall be transmitted not earlier than noon of 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.~~

~~(2) An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.~~

~~(3) The individual shall set forth the following:~~

~~(1) 1. That the individual continues the claim for benefits;~~

~~(2) 2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;~~

~~(3) 3. That the individual indicates the number of employers contacted for work;~~

~~(4) 4. That the individual knows the law provides penalties for false statements in connection with the claim;~~

~~(5) 5. That the individual has reported any job offer received during the period covered by the claim;~~

~~(6) 6. Other information required by the department.~~

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ITEM 8. Amend subrule 24.2(3) as follows:

24.2(3) Filing a claim for unemployment insurance benefits (interstate only).

a. Initial interstate claims. ~~The filing of an initial interstate claim shall conform to all requirements of this rule with the exception of the initial claim form. Both agent and liable states shall use the Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the Interstate Handbook. All interstate claimants must file an Iowa claim electronically or through a department representative.~~

b. ~~Rescinded IAB 8/6/03, effective 9/10/03. When the department is acting as an agent for another state unemployment insurance agency with respect to the filing of an initial claim for benefits, the department shall require an interstate claimant to complete and file an Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the interstate handbook.~~

ITEM 9. Amend subrule 24.8(1) as follows:

24.8(1) ~~Mailing~~ Issuance of a notice of the filing of an initial claim or a request for wage and separation information to employing units.

a. The Form 65-5317, Notice of Claim, and the Form 68-0221, Request for Wage and Separation Information, shall be ~~addressed to:~~

(1) ~~The~~ Addressed to the address or addresses as requested by the employing unit and agreed to by the department; ~~or,~~

(2) ~~The~~ to the business office of the employing unit where the records of the individual's employment are maintained; ~~or~~

(3) ~~The~~ to the employing unit's place of business where the individual claiming benefits was most recently employed; ~~and~~

(2) Sent electronically via the United States Department of Labor State Information Data Exchange System (SIDES).

b. No change.

ITEM 10. Amend paragraph **24.8(2)“d”** as follows:

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be ~~made by mail using Form 60-0154, Notice of Separation, or by telephone using a telephone number designated by the department~~ submitted electronically.

(1) and (2) No change.

ITEM 11. Rescind and reserve paragraph **24.8(3)“c.”**

ITEM 12. Amend paragraph **24.9(2)“a”** as follows:

a. When a protest of an initial claim for benefits is filed, the department shall mail to the individual claiming benefits, and the most recent or any other base period employing unit, ~~either a Form 60-0186 (manually generated) or a Form 65-5323 (computer generated),~~ Unemployment Insurance Decision, which affects the individual's right to benefits.

ITEM 13. Amend paragraph **24.9(2)“b”** as follows:

b. ~~The interested parties shall~~ When an issue could result in a decision detrimental to an interested party, the interested party shall be afforded the opportunity to present facts and evidence in person or by telephone at which may include an informational fact-finding interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may ~~tape record~~ record (video or audio) the proceedings. All participants must be informed of the ~~taping recording~~ taping recording of the interview. The ~~taping recording~~ taping recording of the interview must not be disruptive or distracting in nature.

ITEM 14. Rescind and reserve subrule **24.23(24).**

ITEM 15. Amend subrule 24.25(10) as follows:

24.25(10) The claimant left employment to accompany the spouse to a new locality. No ~~disqualification shall be imposed when Iowa Code section 96.5(1)“b” is applicable.~~

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ITEM 16. Amend subrules 24.31(2), 24.31(5) and 24.31(6) as follows:

24.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least \$250, ~~to fulfill the condition to be eligible for benefits on a new claim~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year as of the end of the benefit year end date. Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

24.31(5) The amount equal to ~~\$250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

24.31(6) Disqualification for lack of ~~the \$250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling ~~\$250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year during or subsequent to the previous benefit year.

ITEM 17. Amend subrule 24.35(1) as follows:

24.35(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States ~~postal service~~ Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted ~~by any means other than the United States postal service on the date it is received by the division~~ via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

c. If transmitted by any means other than those outlined in paragraphs 24.35(1) "a" and "b," on the date it is received by the division.

ITEM 18. Amend subrule 24.38(3) as follows:

24.38(3) The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done electronically, by cash, by check, by money order, or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

ITEM 19. Amend subrule 24.39(2) as follows:

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

ITEM 20. Amend rule **871—25.1(96)**, definition of "Fact-finding interview," as follows:

"Fact-finding interview" means a ~~face-to-face~~ discussion between a claimant or an employer and an investigator for the purpose of obtaining from the claimant or employer a statement containing information on a specific eligibility or disqualification issue.

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ITEM 21. Rescind the definition of “Internal audit” in rule **871—25.1(96)**.

ITEM 22. Amend paragraph **25.3(1)“i”** as follows:

i. Validity of alien registration numbers through a cross-check with ~~Immigration and Naturalization Service~~ U.S. Citizenship and Immigration Services. If an alien has falsely claimed to be a U.S. citizen or used a false alien registration card in order to receive benefits, prosecution cases will be prepared when appropriate. Refer to rule 871—24.60(96) for the definition of alien.

ITEM 23. Amend subrule 25.5(3) as follows:

25.5(3) The ~~investigation~~ investigations and recovery bureau unit may seek the assistance and expertise of the ~~field auditors in investigating suspected cases of employing unit fraud~~ tax bureau staff.

ITEM 24. Amend subrule 25.7(1) as follows:

25.7(1) ~~A determination that a claimant,~~ Determination by reason of the claimant’s own fault, employer’s fault, agency fault, or fraud as provided in Iowa Code section 96.16, that the claimant has received benefits to which such claimant was not entitled shall be made by the ~~investigation~~ investigations and recovery bureau unit on the basis of such facts as it may obtain.

ITEM 25. Amend subrule 25.8(1), introductory paragraph, as follows:

25.8(1) *Good faith overpayment.* If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall ~~have the right to~~ recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. The department shall mail the overpayment decision to the claimant’s last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

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[Published 8/2/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.

ARC 3248C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby amends Chapter 22, “Employer Records and Reports,” Chapter 24, “Claims and Benefits,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were enacted. The agency needs to have administrative rules that address these changes.

Notice of Intended Action for these amendments was published in the June 7, 2017, Iowa Administrative Bulletin as **ARC 3114C**. No comments were received. The Notice was on the agenda of the Administrative Rules Review Committee (ARRC) meeting held on July 6, 2017. No questions or comments were received during this public meeting of the ARRC. Except for the striking of the word “the” before a form number in Item 7, these amendments are identical to those published under Notice of Intended Action.

This rule making does not have a fiscal impact on the State of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

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

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective September 6, 2017.

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The following amendments are adopted.

ITEM 1. Amend rule 871—22.2(96) as follows:

871—22.2(96) Reports. Each employing unit shall make such reports at such times as the department may require, and shall comply with the instructions ~~printed upon any report form~~ issued by the department pertaining to the preparation and return of such report.

This rule is intended to implement Iowa Code section 96.11(1).

ITEM 2. Amend subrule 22.3(1) as follows:

22.3(1) Each employer shall, by the due date, ~~file a 65-5300, Employer's Contribution & Payroll Report,~~ electronically submit contribution and payroll for each quarter listing wages paid with respect to all the employer's business maintained within this state computed in accordance with the Iowa Code and these rules.

ITEM 3. Rescind and reserve subrule **22.3(2)**.

ITEM 4. Amend subparagraph **24.1(25)“b”(19)** as follows:

(19) ~~*Subsequent Second benefit year claim.* A new claim with an effective date for a subsequent second benefit year which immediately follows is filed within 180 calendar days following the last week of the individual's previous benefit year. The individual is notified by mail of the transition between the benefit years and is requested to provide the department with the information which has changed from the previous benefit year's claim for benefits expiration of the previous benefit year.~~

ITEM 5. Amend paragraph **24.2(1)“b”** as follows:

~~*b. The procedure for filing an initial claim.* An individual, following a separation from work, shall report in person at the nearest workforce development center with the individual's social security number, and the individual shall register for work and file a claim for benefits on the Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, prescribed by the department and shall provide, in addition to other requested information, the following information~~ When filing an initial claim for benefits, an individual must provide the following information to the department:

- (1) The name and complete mailing address of such individual's last employing unit or employer;
- (2) The location of the last job;
- (3) Last day of work;
- (4) The reason for separation from work;
- (5) That such individual is unemployed;
- (6) That the individual registers for work;
- (7) The individual's last job occupation;

(8) Number, name and relationship of any dependents claimed. As used in this subparagraph, “dependent” is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant, stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin.

A “spouse” is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim.

A “dependent” means an individual who has been or could have been claimed for the preceding tax year on the claimant's income tax return or will be claimed for the current income tax year. The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

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(9) ~~The option of filing for continued benefits by using the voice response continued claim system or by other means designated by the department.~~ The individual's social security number and alien registration number, if applicable.

(10) Such other information as required by the ~~form~~ department.

ITEM 6. Amend paragraph **24.7(3)“b”** as follows:

b. Did not ~~work in and~~ receive wages from insured work for:

- (1) Three or more calendar quarters in the base period, or
- (2) Two calendar quarters and lacked qualifying wages from insured work during another quarter of the base period.

ITEM 7. Amend rule 871—24.27(96) as follows:

871—24.27(96) Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 ~~or 60-0186~~, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1) “g.”

ITEM 8. Amend paragraph **24.33(2)“n”** as follows:

n. The employer will receive separate notices of claim filing for each claimant and shall make any protest in the appropriate section on ~~the reverse side of~~ Form 65-5317, Notice of Claim. The employer will receive a copy of the decision which may be appealed.

ITEM 9. Amend paragraph **25.7(6)“a”** as follows:

a. The department shall always demand immediate repayment of the overpayment as its first option for those claimants not in benefit claiming status at the time of the initial overpayment determination. If not paid immediately, the overpayment amount will be deducted from future benefits. Recovery of overpayments due to misrepresentation or fraud may also include the filing of a notice of lien or other civil action. Upon finalization of the determination of overpayment by reason of a claimant's fault or fraud, interest shall accrue at a rate of 1/30th of 1 percent per day until the overpayment is paid in full.

ITEM 10. Amend subrule 25.12(3) as follows:

25.12(3) An employer may choose to participate in the automated crossmatch procedure by following the ~~magnetic media~~ electronic submission guidelines.

ITEM 11. Adopt the following **new** subrule 25.12(4):

25.12(4) An employer that fails to respond to a request for wage information pertaining to specific claimant(s) as such request pertains to benefit payments will be charged a fee of \$25 per claimant.

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