



# IOWA ADMINISTRATIVE BULLETIN

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August 12, 2020

NUMBER 4  
Pages 247 to 370

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## PREFACE

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

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

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

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

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

Telephone: (515)281-6048  
Telephone: (515)281-3355

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

### CITATION of Administrative Rules

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

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

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

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

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

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

## Schedule for Rule Making 2020

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 19, 2020	September 9, 2020
7	Friday, September 4, 2020	September 23, 2020
8	Friday, September 18, 2020	October 7, 2020

**PLEASE NOTE:**

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

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

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

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

**NOTE: See also the Advisory Notice on page 370.**

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National Institute of Standards and Technology (NIST) Handbooks 44, 130, and 133—adoption by reference, 85.39 IAB 7/29/20 <b>ARC 5108C</b>	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 19, 2020 9 to 10 a.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Water quality certification, 61.2 IAB 8/12/20 <b>ARC 5134C</b>	Via video/conference call Contact Christine Schwake Email: <a href="mailto:christine.schwake@dnr.iowa.gov">christine.schwake@dnr.iowa.gov</a>	September 1, 2020 3 to 4 p.m.
NPDES general permit no. 5, 64.15(5) IAB 8/12/20 <b>ARC 5135C</b>	Via video/conference call Contact David Schelling Email: <a href="mailto:david.schelling@dnr.iowa.gov">david.schelling@dnr.iowa.gov</a>	September 1, 2020 2 to 3 p.m.
NPDES general permit no. 7, 64.15(7) IAB 8/12/20 <b>ARC 5136C</b>	Via video/conference call Contact Melinda McCoy Email: <a href="mailto:melinda.mccoy@dnr.iowa.gov">melinda.mccoy@dnr.iowa.gov</a>	September 1, 2020 2 to 3 p.m.

**INSURANCE DIVISION[191]**

Contested cases; waivers; interventions, amendments to chs 3, 4 IAB 7/29/20 <b>ARC 5109C</b>	Via conference call Contact Tracy Swalwell Phone: 515.725.1249 Email: <a href="mailto:tracy.swalwell@iid.iowa.gov">tracy.swalwell@iid.iowa.gov</a>	August 25, 2020 11 a.m. to 12 noon
Licensing—producers, viatical settlement brokers, viatical settlement providers, public adjusters, amendments to chs 10, 48, 55, 58 IAB 8/12/20 <b>ARC 5129C</b>	Via conference call Contact Tracy Swalwell Phone: 515.725.1249 Email: <a href="mailto:tracy.swalwell@iid.iowa.gov">tracy.swalwell@iid.iowa.gov</a>	September 7, 2020 10 to 11 a.m.

**MEDICINE BOARD[653]**

Iowa physician health committee and program, amendments to ch 14 IAB 8/12/20 <b>ARC 5132C</b>	Via Google Meet: <a href="https://meet.google.com/teb-xwca-kgk">meet.google.com/teb-xwca-kgk</a> Via phone: +1 305.912.3978 PIN: 639 231 381# Mute phones or microphones upon entering the meeting	September 2, 2020 1 to 2 p.m.
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**MEDICINE BOARD[653](cont'd)**

Physician supervision of  
physician assistants, 21.1,  
21.4  
IAB 8/12/20 **ARC 5133C**

Via Google Meet:  
[meet.google.com/zpn-yudi-jvb](https://meet.google.com/zpn-yudi-jvb)  
Via phone: +1 502.382.4450  
PIN: 756 685 379#  
Mute phones or microphones upon entering  
the meeting

September 2, 2020  
2 to 3 p.m.

**NATURAL RESOURCE COMMISSION[571]**

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IAB 7/29/20 **ARC 5112C**

Via video/conference call  
Contact Brian Hickman  
Email: [brian.hickman@dnr.iowa.gov](mailto:brian.hickman@dnr.iowa.gov)

August 18, 2020  
1 to 2 p.m.

**NURSING BOARD[655]**

Administrative and regulatory  
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IAB 7/29/20 **ARC 5116C**

Board Office, Suite B  
400 S.W. 8th St.  
Des Moines, Iowa

August 18, 2020  
9 to 10 a.m.

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Board Office, Suite B  
400 S.W. 8th St.  
Des Moines, Iowa

August 18, 2020  
10 to 11 a.m.

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Comprehensive review of rules,  
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IAB 8/12/20 **ARC 5126C**

Small Conference Room, Third Floor  
200 E. Grand Ave.  
Des Moines, Iowa

September 1, 2020  
10 to 11 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Competition with private  
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IAB 8/12/20 **ARC 5122C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

September 3, 2020  
10 to 11 a.m.  
(If requested)

Motor vehicle  
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IAB 7/29/20 **ARC 5101C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
9 to 10 a.m.  
(If requested)

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Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
1 to 2 p.m.  
(If requested)

Driver's licenses for  
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Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
10 to 11 a.m.

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

October 20, 2020  
9 a.m. to 12 noon

The following list will be updated as changes occur.

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

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

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

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**ARC 5124C****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to loan repayment programs  
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 14, “Health Care Professional Recruitment Program,” Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” and Chapter 26, “Health Care Loan Repayment Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2020 Iowa Acts, Senate File 2118.

*Purpose and Summary*

The proposed rule making implements amendments enacted by 2020 Iowa Acts, Senate File 2118. The amendments allow a recipient of a loan repayment program administered by the Commission who refinances an eligible student loan by obtaining a private education loan to continue to receive loan repayment awards.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

Mark Wiederspan  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [mark.wiederspan@iowa.gov](mailto:mark.wiederspan@iowa.gov) or administrative rules website at [rules.iowa.gov](http://rules.iowa.gov)

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 14.2(4) as follows:

**14.2(4) Eligible loans.** Eligible loans include subsidized and unsubsidized Stafford loans, Grad PLUS loans and consolidated loans. Only the outstanding portion of a Federal Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, an eligible Direct Unsubsidized Loan, or an eligible Grad PLUS Loan qualifies for loan repayment. A health care professional who receives loan repayment under this program and who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment awards.

ITEM 2. Amend rule **283—24.2(261)**, definition of “Eligible loan,” as follows:

“*Eligible loan*” means the physician’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, federal Graduate PLUS Loan, or federal Perkins Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment. A physician who receives loan repayment under this program and who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment awards.

ITEM 3. Amend rule **283—26.2(261)**, definition of “Qualified student loan,” as follows:

“*Qualified student loan*” means a loan that was made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, or under Title VII or VIII of the federal Public Health Service Act, as amended, directly to the borrower for attendance at an approved postsecondary institution. Only the outstanding portion of a federal consolidation loan that was used to repay a qualified student loan qualifies for loan repayment. A recipient who refinances a qualified student loan by obtaining a private educational loan may continue to receive loan repayment awards.

**ARC 5125C**

**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to future ready Iowa skilled workforce last-dollar scholarship program and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 15, “Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program,” Iowa Administrative Code.

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 261.3 and 2020 Iowa Acts, House File 2629, sections 18 and 19.

*State or Federal Law Implemented*

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

*Purpose and Summary*

The proposed rule making implements amendments enacted by 2020 Iowa Acts, House File 2629, sections 18 and 19, and makes several additional technical corrections.

2020 Iowa Acts, House File 2629, sections 16 and 17, expand student eligibility under the program; the administrative rules have been amended to reflect those changes.

In addition, the technical amendments ensure that students whose enrollment is disrupted due to military deployment, medical incapacity, or a declared disaster can apply for a waiver to the continuous enrollment provision; specify that students may receive a scholarship award in the semester that their credential will be completed if their remaining credits do not equate to at least half-time enrollment; add two definitions; and update statutory references.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

Mark Wiederspan  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [mark.wiederspan@iowa.gov](mailto:mark.wiederspan@iowa.gov) or administrative rules website at [rules.iowa.gov](http://rules.iowa.gov)

*Public Hearing*

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of "Adult learner" and "Approved state-recognized work-based learning program" in rule **283—15.2(261)**:

"*Adult learner*" means an eligible student who attains the age of 20 as of July 1 prior to the year of enrollment and who has not received an award under subparagraph 15.3(1) "j"(1) or 15.3(1) "j"(2).

"*Approved state-recognized work-based learning program*" means a structured educational and training program that includes authentic worksite training and is approved by the Iowa department of education.

ITEM 2. Amend subrule 15.3(1) as follows:

**15.3(1)** An applicant of the future ready Iowa skilled workforce last-dollar scholarship program must:

a. to i. No change.

j. Meet one of the following ~~two~~ three conditions:

(1) ~~Enroll~~ Prior to becoming an adult learner, enroll on a full-time basis ~~during the fall semester immediately following graduation from an Iowa high school, or completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A,~~ and maintain continuous enrollment on a full-time basis in subsequent ~~terms~~ semesters, with the exception of the summer semester, to receive additional awards. An eligible student must enroll on at least a part-time basis during the summer semester to receive an award. An eligible student may enroll in fewer than 12 semester hours, or the equivalent, in the semester that the credential will be completed if full-time enrollment is not required to complete the program of study.

(2) Prior to becoming an adult learner, and following graduation from an Iowa high school, completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A, enter into full-time or part-time employment in a state-recognized work-based learning program approved by the Iowa department of education and enroll on a full-time or part-time basis and maintain continuous enrollment on a full-time or part-time basis in subsequent terms to receive additional awards. An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if half-time enrollment is not required to complete the program of study.

~~(2) (3)~~ Following receipt of a high school diploma or high school equivalency diploma, and ~~on or after attaining the age of 20 after becoming an adult learner,~~ enroll on a full-time or part-time basis in an eligible program at an eligible institution, and maintain continuous enrollment on a full-time or part-time basis in subsequent ~~terms~~ semesters to receive additional awards. ~~Ages are calculated on July 1 prior to the year of enrollment.~~ An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if half-time enrollment is not required to complete the program of study.

~~If the student is granted a leave of absence by discontinues enrollment at the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, due to military deployment, a temporary medical incapacity, in relation to the declaration of a national or state emergency, or other exceptional circumstances approved by the commission, the student must apply for a waiver. If the waiver is approved, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence waiver.~~

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

ITEM 3. Amend subrule 15.5(1) as follows:

**15.5(1)** An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12 Iowa Code section 84A.1B(14).

**ARC 5123C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Notice of Intended Action**

**Proposing rule making related to rural veterinarian loan repayment program and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to adopt new Chapter 27, “Rural Veterinarian Loan Repayment Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2020 Iowa Acts, House File 2398.

*Purpose and Summary*

The proposed rule making implements a new loan repayment program enacted in 2020 Iowa Acts, Senate File 2398.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

Mark Wiederspan  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309-4608  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [mark.wiederspan@iowa.gov](mailto:mark.wiederspan@iowa.gov) or administrative rules website at [rules.iowa.gov](http://rules.iowa.gov)

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** 283—Chapter 27:

CHAPTER 27  
RURAL VETERINARIAN LOAN REPAYMENT PROGRAM

**283—27.1(261) Rural veterinarian loan repayment program.** The rural veterinarian loan repayment program is a state-supported and state-administered loan repayment program established to repay the eligible loans of veterinarians who agree to practice in service commitment areas or in veterinary shortage areas for four consecutive years and meet the requirements of these rules.

**283—27.2(261) Definitions.** As used in this chapter:

“*Eligible loan*” means the veterinarian’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, or federal Graduate PLUS Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

“*Eligible university*” means a college or university that offers a veterinary medicine degree program; is eligible to participate in federal student aid programs authorized under Title IV of the federal Higher Education Act of 1965, as amended; and is accredited by the American Veterinary Medical Association Council on Education.

“*Food supply veterinary medicine*” means corporate and private practices devoted to food animal medicine, mixed animal medicine, food safety, epidemiology, public health, animal health, and other public and private practices that contribute to the production of a safe and wholesome food supply.

“*Maximum award*” means the maximum amount of loan repayments that the veterinarian can receive after completing all obligations under the rural veterinarian loan repayment program, not to exceed a total of \$60,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

“*Service commitment area*” means an Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. If a veterinarian is not working in a veterinary shortage area but is working in a service commitment area, the veterinarian must contract with the service commitment area to ensure the service commitment area provides a nonrefundable contribution equivalent to 12.5 percent of the veterinarian’s eligible loan balance for deposit in the rural veterinarian trust fund. The veterinarian’s eligible loan balance will be calculated after the program agreement is signed. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances

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

between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

*“Veterinarian”* means an individual who holds a practitioner’s license pursuant to Iowa Code chapter 169 and is engaged in the practice of veterinary medicine in a service commitment area or a veterinary shortage area in Iowa.

*“Veterinary shortage area”* means a designated veterinary service shortage in Iowa recommended for designation in accordance with the federal National Veterinary Medical Service Act and published by the United States Department of Agriculture. Data from the most recent year for which data is available will be used to award funds to new eligible applicants. In addition to the veterinary shortage areas published by the United States Department of Agriculture, the state veterinarian may designate additional veterinary shortage areas in Iowa. All veterinary shortage areas designated in a given year will be published by the commission prior to soliciting applications from eligible applicants.

**283—27.3(261) Eligible applicant.** An individual who is enrolled in the final year of a veterinary degree program at an eligible university or who has received a veterinary medicine degree from an eligible university within the past five years may sign a program agreement. The individual must commit to meeting the eligibility requirements described in rule 283—27.4(261).

**283—27.4(261) Eligibility requirements.**

**27.4(1)** In order to be considered an eligible veterinarian under the program, the eligible applicant must:

- a. Complete an application and sign a program agreement by the date(s) specified by the commission.
- b. Complete a doctor of veterinary medicine degree, or the equivalent, at an eligible university.
- c. Within one year of completing a doctor of veterinary medicine degree, or the equivalent, or signing a program agreement, whichever is most recent, an eligible applicant must have a permanent license to practice veterinary medicine under Iowa Code chapter 169 and engage in full-time practice as a veterinarian in a service commitment area or veterinary shortage area in Iowa.

Prior to engaging in the practice of veterinary medicine in a service commitment area or veterinary shortage area, the veterinarian must notify the commission of the service commitment area or veterinary shortage area in which the veterinarian will be engaged in veterinary practice, and the commission will verify the eligibility of the service commitment area or veterinary shortage area.

**27.4(2)** Eligible applicants not working in a veterinary shortage area. Prior to or upon engagement in full-time practice in a service commitment area, the veterinarian must contract with a service commitment area to provide a nonrefundable contribution for deposit in the rural veterinarian trust fund. The nonrefundable contribution must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

**27.4(3)** Failure by the applicant to meet all eligibility requirements under this rule and in the program agreement will result in forfeiture of all remaining unpaid payments.

**283—27.5(261) Priority for program agreements.**

**27.5(1)** In the event that all on-time eligible applicants cannot be funded with the available appropriation, program agreements will be prioritized as follows:

- a. Eligible applicants who will practice as private practice food supply veterinarians in a veterinary shortage area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as private practice food supply veterinarians in a veterinary shortage area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.
- b. Eligible applicants who will practice as private practice food supply veterinarians in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as private practice food



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

supply veterinarians in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.

c. Eligible applicants who will practice as a veterinarian in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as veterinarians in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.

**27.5(2)** In the event that all on-time eligible applicants within a priority group described in subrule 27.5(1) cannot be funded, eligible applicants within that priority group will be prioritized according to the date the application was received by the commission.

**283—27.6(261) Awarding of funds.**

**27.6(1)** The maximum award will be paid to the veterinarian's eligible loan holder in four equal installments, upon successful completion of each of four 12-month practice obligations. Failure to complete all, or any portion, of the four-consecutive-year practice obligation will result in the forfeiture of all remaining unpaid payments. A veterinarian who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area or veterinary shortage area as provided in any contract between the veterinarian and the service commitment area or veterinary shortage area.

**27.6(2)** An eligible applicant must annually complete and return to the commission an affidavit of completion of practice in a service commitment area or veterinary shortage area.

**283—27.7(261) Waivers.**

**27.7(1)** *Service commitment area or veterinary shortage area.* The commission may waive the requirement that the veterinarian practice in the same service commitment area or veterinary shortage area for four years as long as the veterinarian continues to practice in a service commitment area or veterinary shortage area. The veterinarian must request a waiver from the commission in writing.

**27.7(2)** *Postponement of veterinarian practice.* The veterinarian obligation to engage in practice in accordance with rule 283—27.4(261) may be postponed for no more than two years from the time full-time practice was to commence. The veterinarian must request a waiver from the commission in writing for one of the following purposes:

- a. Active duty service in the armed forces, the armed forces military reserve, or the national guard.
- b. Service in Volunteers in Service to America or the federal Peace Corps.
- c. A rural service commitment to the United States Public Health Service Commissioned Corps.
- d. A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The veterinarian obligation to engage in practice in accordance with rule 283—27.4(261) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the veterinarian is unable to engage in full-time practice. The veterinarian must request a waiver from the commission in writing.

**27.7(3)** *Satisfaction of the veterinarian practice obligation.* All obligations under the rural veterinarian loan repayment program are considered to be satisfied when any of the following conditions are met:

- a. All terms of the agreement are met.
- b. The person who entered into the agreement dies.
- c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
- d. The person who entered into the agreement has no remaining eligible loan balance to repay.

**283—27.8(261) Loan repayment cancellation.**

**27.8(1)** Within 30 days following termination of practice as a veterinarian in a service commitment area or a veterinary shortage area, the applicant must notify the commission.

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

**27.8(2)** The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, email address, and location of practice.

**283—27.9(261) Restrictions.**

**27.9(1)** A veterinarian who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

**27.9(2)** A veterinarian who participated in and received loan repayment awards through the veterinary medicine loan repayment program administered by the United States Department of Agriculture is ineligible to enter into a program agreement or receive loan repayment benefits under this program.

These rules are intended to implement Iowa Code section 261.120 as enacted by 2020 Iowa Acts, Senate File 2398.

**ARC 5134C****ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action****Proposing rule making related to water quality certification applications and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 455B.105 and 455B.173.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.105 and 455B.173.

*Purpose and Summary*

The proposed rule making is intended to streamline the process by which the Department of Natural Resources (Department) certifies that each United States Army Corps of Engineers (Corps) nationwide or regional Federal Water Pollution Control Act (the Act) Section 404 permit (Corps’s nationwide or regional permit) meets Iowa’s water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify via rule making that each Corps’s nationwide or regional permit meets Iowa’s water quality standards. Such certification is required by Section 401 of the Act, but certification via rule making is not. Certification by rule making is unnecessarily burdensome and can delay the applicability of the benefits of the Corps’s nationwide or regional permits to the regulated community. In addition, the rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps’s permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying the Corps’s nationwide or regional permits will continue to provide opportunity for public comments.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 11, 2020. Comments should be directed to:

Christine Schwake  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.725.8201  
Email: [christine.schwake@dnr.iowa.gov](mailto:christine.schwake@dnr.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Christine Schwake via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Christine Schwake prior to the hearing to facilitate an orderly hearing.

September 8, 2020  
3 to 4 p.m.

Video/conference call  
Wallace State Office Building

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 1. Amend paragraph **61.2(2)“g”** as follows:

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. ~~United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:~~

~~(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.~~

~~(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.~~

~~(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.~~

~~(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.~~

~~(5) For single family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.~~

~~(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.~~

~~(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~(8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).~~

~~Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.~~

ITEM 2. Adopt the following **new** subrule 61.2(6):

**61.2(6) State water quality certification.** This subrule describes the procedures the department will follow when processing applications for state water quality certification (certification) of federally issued licenses and permits pursuant to Section 401 of the Act, including but not limited to permits issued by the United States Corps of Engineers (Corps) pursuant to Section 404 of the Act.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*a.* General. The department shall receive, consider, and process applications for certification in accordance with Section 401 of the Act.

*b.* Applications. Applications for certification shall be made either on the Corps Section 404 Permit Application form or on the department Section 401 Water Quality Certification form. These forms are available on the department's website. Individual permits issued by the Corps require submission of an application to obtain state water quality certification. However, new or renewed nationwide or regional permits issued by the Corps pursuant to Section 404 of the Act shall not require the submission of an application form.

*c.* Public notice. The department shall issue a public notice of an application for certification. The public notice may be a joint public notice issued by the Corps on behalf of the department. The public notice shall solicit comments from the public regarding whether the proposed project complies with state water quality standards in accordance with Section 401 of the Act. The public notice shall specify the procedure and time frame for submitting comments on the proposed project.

*d.* Public notice for new or renewed nationwide or regional permits. The department shall provide additional notice to the public of certification of new or renewed nationwide or regional permits issued by the Corps pursuant to Section 404 of the Act. The department shall provide such notice on its website. The public notice shall solicit comments from the public regarding whether the proposed permit complies with state water quality standards in accordance with Section 401 of the Act. The public notice shall specify the procedure and time frame for submitting comments on the proposed permit.

*e.* Department action on application. After the close of the public comment period and consideration of comments received, the department may issue a certification letter which may include conditions necessary to ensure compliance with state water quality standards, waive issuance of the certification, or deny certification in accordance with Section 401 of the Act.

*f.* Certification of federal permits or licenses may require conditions, which may include one or more of the following, to ensure water quality standards are met:

(1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering waters of the state;

(2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state;

(3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality standards;

(4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state;

(5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards;

(6) Riprap and temporary crossings shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in riprap material placed in any water of the state or within the high-water table;

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged in a manner that causes a violation of water quality standards;

(8) Water quality monitoring will be required for Federal Energy Regulatory Commission hydropower projects at the baseline, construction and operational phases of the project;

(9) Hydropower dams shall be operated in a run-of-river mode and will release a minimum of the seven-day, ten-year low flow (7Q10) over the dam at all times during hydropower operation to maintain downstream water quality;

(10) Hydraulically dredged material shall be managed to ensure the return water meets water quality standards. The following tests shall be conducted on the material to be dredged, if required by the department in the certification:

1. Prior to commencement of hydraulic dredging, the permittee shall perform a sieve analysis and a modified elutriate test procedure to predict the effluent quality and the concentration of contaminants

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

in the effluent. Results of the sieve analysis and elutriate test and a map indicating the sampling locations shall be forwarded to the department and to the Corps prior to the commencement of dredging; and

2. Water from the elutriate test shall be tested for the following: ammonia, oil and grease, pH, turbidity, total suspended solids, carbonaceous biochemical oxygen demand (five-day)/chemical oxygen demand, atrazine, copper, lead, zinc, mercury, cadmium, selenium, silver, chromium VI, and cyanide.

Should any of the above test results violate water quality standards, the department may amend the certification to assure that water quality standards are met.

g. Duration of certification. The department's certification shall remain in effect until the expiration date of the applicable permit or until the department issues a decertification letter.

**ARC 5135C****ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action****Proposing rule making related to NPDES general permit no. 5  
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 455B.173(11).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

*Purpose and Summary*

The purpose of this proposed rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 5 (GP5), which authorizes the discharge of wastewater associated with mining and processing facilities. The permit requires the implementation of best management practices and requires monitoring of the wastewater effluent to determine compliance with applicable limits.

The rule making includes changes to GP5 in order to increase clarity, add definitions, revise the definition for "Water of the United States" to reference the federal definition as of June 22, 2020 (effective date of the final Navigable Waters Protection Rule published by the United States Environmental Protection Agency), and comply with existing state rules. Annual fees are required with GP5. Fees are specified in Iowa Code section 455B.197 and are not impacted by this rule making.

A copy of the proposed permit is available online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP5-Mining-Processing](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP5-Mining-Processing).

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

David Schelling  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.725.8202  
Email: [david.schelling@dnr.iowa.gov](mailto:david.schelling@dnr.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact David Schelling via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to David Schelling prior to the hearing to facilitate an orderly hearing.

September 2, 2020  
2 to 3 p.m.

Video/conference call  
Wallace State Office Building

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 64.15(5) as follows:

**64.15(5)** “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective July 20, ~~2016~~ 2021, to July 19, ~~2021~~ 2026.

**ARC 5136C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

**Proposing rule making related to NPDES general permit no. 7  
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 455B.173(11).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

*Purpose and Summary*

The purpose of this proposed rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 7 (GP7), which authorizes discharges that result from the application of biological pesticides and chemical pesticides that leave residue from point sources to waters of the United States. The permit covers discharges resulting from the application of pesticides to control aquatic nuisance insects and animals, weeds, algae, bacteria, fungi, fish parasites, and forest canopy pests. Irrigation return flows and agricultural runoff are not covered under GP7 because they are excluded from the Clean Water Act. The permit requires the implementation of best management practices and visual monitoring of the application site for adverse impacts caused by the application of pesticides. No fees are associated with GP7.

The rule making includes formatting and other nonsubstantive changes to GP7 to simplify existing language, improve clarity, and minimize unnecessary duplication. The rule making also includes five substantive changes to GP7 as described below.

- Add coverage for discharges resulting from ground application of a pesticide to a forest canopy since this is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle.
- Require reporting of the exact location of a hazardous condition and the name of any affected water body as part of the six-hour hazardous condition notification requirements since this information is important for Department response efforts.
- Remove the part titled “Additional Permit Requirements,” which states that the Department may impose additional, enforceable permit conditions in a written notice. This part is considered unnecessary since the Department can require an individual permit where requirements beyond those included in the general permit are necessary. Removal of this part does not affect the Department’s authority to enforce permit conditions.
- Remove requirements for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.
- Revise the definition for “Water of the United States” to reference the current federal definition as of June 22, 2020, which is the effective date of the final Navigable Waters Protection Rule published by the United States Environmental Protection Agency.

A copy of the proposed permit is available online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP7-Pesticides](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP7-Pesticides).



## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

Melinda McCoy  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.725.8202  
Email: [melinda.mccoy@dnr.iowa.gov](mailto:melinda.mccoy@dnr.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Melinda McCoy via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Melinda McCoy prior to the hearing to facilitate an orderly hearing.

September 1, 2020  
2 to 3 p.m.

Video/conference call  
Wallace State Office Building

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Amend subrule 64.15(7) as follows:

**64.15(7)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides,” NPDES General Permit No. 7, effective May 18, ~~2016~~ 2021, to May 17, ~~2021~~ 2026.

**ARC 5131C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to family-centered services and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 80, “Procedure and Method of Payment,” Chapter 133, “IV-A Emergency Assistance Program,” Chapter 172, “Family-Centered Child Welfare Services,” and Chapter 175, “Abuse of Children,” and rescind Chapter 186, “Community Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code chapter 234.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 234.

*Purpose and Summary*

The proposed amendments implement the federal Family First Prevention Services Act. The Family First Prevention Services Act reforms the federal child welfare financing streams. Title IV-E and Title IV-B of the Social Security Act provide for services to families that are at risk of entering the child welfare system. A core expectation under the Family First Prevention Services Act is that states must employ evidence-based interventions demonstrated to effectively strengthen and preserve connections between children and their families. The primary focus of these services is to prevent removal of children and placement into foster care.

These proposed changes will positively affect the child welfare contractors that successfully bid on contracts as the evidence-based interventions provide clear expectations of fidelity to models used in service provisions.

*Fiscal Impact*

There will be a cost associated with the implementation of the provisions of the Family First Prevention Services Act. Costs include Department and provider implementation activities, accreditation and licensing of providers, and increased costs for services above what the Department is currently paying. The cost of these items is uncertain given that implementation is still in process and the new services have not yet started. In addition, the Family First Prevention Services Act provides for a 50 percent federal IV-E match for eligible services, but federal guidance has not been given on which services meet the claiming criteria. As a result, the amount of the federal match and resulting state cost are also not known. In addition, access to high-quality prevention services should ultimately reduce the need for foster care services, but the timing and degree of those services are not yet known.

*Jobs Impact*

The current procurement process for family-centered services allows for more flexibility in staff qualifications based upon selected evidence-based interventions rather than specific education and experience requirements. The flexibility in staff qualifications for the identified evidence-based

## HUMAN SERVICES DEPARTMENT[441](cont'd)

interventions will most likely increase the pool of candidates for employment statewide as qualifications will be based upon skill set, rather than a set standard of education and experience. The services will now be provided statewide, with a maximum of two contracts per each of the five agency service areas.

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

Nancy Freudenberg  
Iowa Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **80.2(2)“g”** as follows:

g. Case management providers ~~shall submit claims on Form 470-2486, Claim for Targeted Medical Care, for services billing services provided pursuant to 441—Chapter 90 and on FACS-generated claims for services provided pursuant to 441—Chapter 186 to fee-for-service members shall submit claims using a HIPAA-compliant electronic claim. Paper claims are no longer accepted effective August 1, 2019.~~

ITEM 2. Amend rule **441—133.1(235)**, definition of “Emergency assistance,” as follows:

“*Emergency assistance*” means any one or more of the following services provided in response to a IV-A emergency assistance application:

1. Family-centered ~~child welfare~~ services as set forth in 441—Chapter 172.
2. to 4. No change.

ITEM 3. Amend paragraph **133.3(4)“a”** as follows:

a. Family-centered ~~child welfare~~ services as established at ~~rule 441—172.12(234) or 441—172.22(234) in 441—Chapter 172.~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend **441—Chapter 172**, title, as follows:

~~FAMILY-CENTERED CHILD WELFARE SERVICES~~

ITEM 5. Amend **441—Chapter 172**, chapter preamble, as follows:

PREAMBLE

These rules define and describe procedures for delivery of family-centered ~~child welfare~~ services. The rules describe the service definitions, and eligibility criteria, ~~contractor selection and contracting processes, performance measures, billing and payment methods, and~~ procedures for client appeals, ~~and service review and audit procedures.~~

ITEM 6. Rescind **441—Chapter 172, Division I**, heading.

ITEM 7. Amend rule 441—172.1(234) as follows:

**441—172.1(234) Definitions.**

“Agency” means the Iowa department of human services.

“Agency child welfare service case” means at least one child in a household is involved in agency services with an agency-assigned social work case manager.

“Agency worker” means the agency child welfare worker who has been assigned responsibility for a child and family’s case, either to perform a child abuse assessment, family assessment, or child in need of assistance (CINA) assessment or assume case management responsibility for ongoing agency child welfare service cases.

“Candidate for foster care” means a child who is identified in a prevention plan as being at imminent risk of entering foster care but who can remain safely in the child’s home or in a kinship placement as long as services or programs that are necessary to prevent the entry of the child into foster care are provided. “Candidate for foster care” includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.

“Child,” “children,” or “youth” means a person or persons who meets meet the definition of a child in Iowa Code section 234.1(2).

“Child abuse” means one or more of the categories of child abuse defined in Iowa Code section 232.68.

“Child abuse assessment” means an assessment process by which the agency responds to all accepted reports of child abuse that allege child abuse as defined in Iowa Code section 232.68(2) “a”(1) through (3) and (5) through (11); or that allege child abuse as defined in Iowa Code section 232.68(2) “a”(4) that also allege imminent danger, death, or injury to a child. A child abuse assessment results in a disposition and a determination of whether a case meets the definition of child abuse and a determination of whether criteria for placement on the registry are met.

“Child in need of assistance” or “CINA” means a child adjudicated by juvenile court to be a child in need of assistance pursuant to Iowa Code section 232.2.

“Child vulnerability” means the degree that a child cannot on the child’s own avoid, negate, or minimize the impact of present or impending danger.

~~“Conditionally safe” means that one or more signs of present or impending danger to a child that are identified on the safety assessment form are not offset by the child’s degree of vulnerability or the caretaker’s protective capacity. A safety plan is required.~~

“Contractor” means a private organization authorized to do business in Iowa that has entered into a contract with the agency to provide one or more of the services defined in this chapter. “Contractor” refers to the organization that is named as the responsible party in the contract and whose authorized representative has signed the contract.

“Family assessment” means an assessment process by which the agency responds to all accepted reports of child abuse that allege child abuse as defined in Iowa Code section 232.68(2) “a”(4), but do not allege imminent danger, death, or injury to a child. A family assessment does not include a determination of whether a case meets the definition of child abuse and does not include a determination of whether criteria for placement on the registry are met.

“Family-centered services” means the services provided by contract pursuant to this chapter.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

“Family preservation services” or “FPS” means short-term, intensive, home-based crisis interventions targeted to families that have children at imminent risk of removal and placement in foster care. Family preservation services combine skill-based interventions and flexibility so that services are available to families according to their individual needs.

“Family safety, risk, and permanency service” means a service that uses strategies and interventions designed to achieve safety and permanency for a child with an open agency child welfare case, regardless of the setting in which the child resides.

“Fictive kin” means a person who is unrelated to a child by blood, adoption, or marriage, but who has an emotionally significant relationship with the child or the child’s family.

“Household” means the place where a child resides.

“Kinship caregiver” means a relative or fictive kin providing care for a child.

“Non-agency-involved case” means a case in which no one in the household is involved with an agency-assigned social work case manager.

“Permanency” means a child has a safe, stable, custodial environment in which to grow up and a lifelong relationship with a nurturing caregiver.

“Protective capacities” means the family strengths or resources that reduce, control, or prevent risks from arising or from having an unsafe impact on a child.

“Risk” means the probability or likelihood that a child will experience maltreatment.

“Safe” means that no signs of present or impending danger to a child are identified or that one or more signs of present or impending danger are identified but the child’s degree of vulnerability or the caregiver’s protective capacities offset the current threat. The child is not likely to be in imminent danger of maltreatment.

“SafeCare®” means an evidence-based training curriculum for parents who are at risk or have been reported for child abuse. Through SafeCare®, parents receive weekly home visits to improve skills in several areas, including home safety, health care, and parent-child interaction.

“Safety plan service” means a service that is designed to monitor the safety of a child during the agency’s child protective assessment or child in need of assistance assessment process.

“Service area manager” means the agency official responsible for managing the agency’s programs, operations, and budget within one of the agency service areas.

“Solution Based Casework®” or “SBC” means an evidence-based, family-centered model of child welfare assessment, case planning, and ongoing casework. The goal of SBC is to work in partnership with the family to help identify the family’s strengths, to focus on everyday life events, and to help the family build the skills necessary to manage difficult situations.

ITEM 8. Amend rule 441—172.2(234) as follows:

**441—172.2(234) Purpose and scope.** Family-centered child welfare services are designed to achieve for the child, parent, or kinship caregiver of the child when the needs of the child, parent, or kinship caregiver for the services are directly related to the safety, permanency, and or well-being for children of the child, or to preventing the child from entering foster care. The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child.

**172.2(1)** Family-centered child welfare services provide interventions and supports for based on identified needs of children who and families that have come to the agency’s attention because of:

a. Allegations of child abuse Evaluation of the findings of a child abuse assessment report and the family’s risk assessment score; or

b. Juvenile court action to adjudicate the child as a child in need of assistance. The child’s adjudication as a child in need of assistance pursuant to Iowa Code section 232.2; or

c. The child’s placement out of home under the agency’s care and supervision.

**172.2(2)** Family-centered child welfare services shall be designed to:

a. Identify and build on the family’s strengths and enhance the family’s protective capacities;

b. Address the risk factors that affect the child’s safety, permanency, and well-being; and

## HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Help the Strengthen family become connected with connections to community resources and informal support systems in order to promote greater self-reliance; and

d. Remain culturally competent and respectful of the family's cultural, ethnic, and racial identity and values.

**172.2(3)** Family-centered ~~child welfare~~ services shall utilize evidence-based interventions to the greatest possible extent.

**172.2(4)** Family-centered services shall include the following persons:

a. A child eligible for services under this rule, as defined by the agency;

b. Any sibling of that child who resides in the same household at the time of service referral or moves into the household during the service delivery period; and

c. A parent, stepparent, or kinship caregiver of the child.

**172.2(5)** Family-centered services shall include SBC for agency child welfare service cases and non-agency-involved cases when criteria in subrule 172.2(1) are met.

**172.2(6)** Based on child and family needs, a child and family with an open agency child welfare service case that are receiving SBC may also be approved to receive the following additional services, which are referred separately:

a. SafeCare®.

b. Family preservation services.

c. Family team decision-making (FTDM) and youth transition decision-making (YTDM) meeting facilitation.

**172.2(7)** Case management. During the time that a child and the child's family are approved to receive family-centered services on an open agency child welfare service case, the agency worker shall be responsible for maintaining contact with the child and family to ensure that:

a. The factors that present risks of harm to the safety and well-being of all children in the family are being adequately addressed; and

b. Services and supports are in place to achieve the child's permanency goal.

ITEM 9. Amend rule 441—172.3(234) as follows:

**441—172.3(234) Authorization.** When the agency has approved provision of family-centered ~~child welfare~~ services for a child and family, the agency worker shall notify the contractor by issuing the referral and authorization for child welfare services form. This ~~referral authorization~~ form shall indicate:

1. The specific service category authorized (~~safety plan; family safety, risk, and permanency~~); and
2. The duration of the authorization.

ITEM 10. Rescind and reserve rule **441—172.4(234)**.

ITEM 11. Rescind and reserve rule **441—172.6(234)**.

ITEM 12. Rescind **441—Chapter 172, Division II**, heading.

ITEM 13. Rescind **441—Chapter 172, Division II**, chapter preamble.

ITEM 14. Rescind rules **441—172.10(234)** to **441—172.15(234)**.

ITEM 15. Rescind **441—Chapter 172, Division III**, heading.

ITEM 16. Rescind **441—Chapter 172, Division III**, chapter preamble.

ITEM 17. Rescind rules **441—172.20(234)** to **441—172.25(234)**.

ITEM 18. Rescind **441—Chapter 172, Division IV**, heading.

ITEM 19. Rescind **441—Chapter 172, Division IV**, chapter preamble.

ITEM 20. Rescind rules **441—172.30(234)** to **441—172.34(234)**.

ITEM 21. Rescind the definition of "Community care" in rule **441—175.21(232,235A)**.

ITEM 22. Rescind and reserve **441—Chapter 186**.

**ARC 5130C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to foster care case permanency plans and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 217.6 and 2019 Iowa Acts, House File 644.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 644.

*Purpose and Summary*

The federal Family First Prevention Services Act, Section 422(b)(15)(A)(vii), and 2019 Iowa Acts, House File 644, require protocols to ensure children being placed in out-of-home settings are not inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions or developmental disabilities. This proposed amendment requires information in case permanency plans for children entering or already in foster care to include efforts to retain existing medical and mental health care providers as well as activities to evaluate service needs.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

Nancy Freudenberg  
Iowa Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule **441—202.1(234)**, definition of “Case permanency plan,” as follows:

“*Case permanency plan*” shall mean the plan identifying goals, needs, strengths, problems, services, time frames for meeting goals and for delivery of the services to the child and parents, objectives, desired outcomes, and responsibilities of all parties involved and reviewing progress. This includes information describing efforts to retain existing medical and mental health care providers for a child entering or in foster care and activities to evaluate service needs to avoid inappropriate diagnoses of mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities.

**ARC 5129C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

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

The Insurance Division hereby proposes to amend Chapter 10, “Insurance Producer Licenses and Limited Licenses,” Chapter 48, “Viatical and Life Settlements,” Chapter 55, “Licensing of Public Adjusters,” and Chapter 58, “Third-Party Administrators,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 508E.19, 510.9, 522B.18 and 522C.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 508E, 510, 522B and 522C and 2020 Iowa Acts, House File 426.

*Purpose and Summary*

The Division proposes to amend Chapters 10, 48, 55, and 58 as part of the Division’s review of rules and to implement 2020 Iowa Acts, House File 426, which allows for the Commissioner to require producers, viatical settlement brokers, viatical settlement providers, and public adjusters applying for an initial license or applying for renewal, reinstatement or reissuance of a suspended or revoked license to submit fingerprints for a criminal history check.

*Fiscal Impact*

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



INSURANCE DIVISION[191](cont'd)

*Jobs Impact*

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

*Waivers*

The Division's general waiver provisions of 191—Chapter 4 apply to these rules.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commissioner no later than 4 p.m. on September 7, 2020. Comments should be directed to:

Prior to August 21, 2020:

Tracy Swalwell

Iowa Insurance Division

Two Ruan Center

601 Locust Street, Fourth Floor

Des Moines, Iowa 50309

Phone: 515.654.6549

Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

Starting August 21, 2020:

Tracy Swalwell

Iowa Insurance Division

1963 Bell Avenue, Suite 100

Des Moines, Iowa 50315

Phone: 515.654.6549

Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held electronically, with no in-person attendance, as follows:

September 7, 2020

10 to 11 a.m.

Persons wishing to attend the conference call hearing should contact Tracy Swalwell. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 10.4(1) as follows:

**10.4(1)** A person whose home state is Iowa and who desires to be licensed as a producer must satisfy the following requirements:

- a. Be at least 18 years of age;<sub>2</sub>
- b. Have not committed any act that is grounds for denial under subrule 10.20(4);<sub>2</sub>
- c. Submit a completed uniform application;<sub>2</sub>
- d. Pass an examination in the line of authority sought, ~~and~~<sub>2</sub>

## INSURANCE DIVISION[191](cont'd)

- e.* Pay the appropriate producer license fee; and
- f.* Submit to a criminal history check pursuant to Iowa Code section 522B.5.

ITEM 2. Amend subrule 10.5(1) as follows:

**10.5(1)** A producer for whom Iowa is not the home state who desires to sell, solicit or negotiate insurance in Iowa must satisfy the following requirements to obtain an Iowa nonresident producer license:

- a.* Be licensed and in good standing in the home state;
- b.* Submit a proper request for licensure to the division through the NIPR Gateway; and
- c.* Pay the appropriate fee; and
- d.* Submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7, if a state and national criminal history check has not already been completed.

ITEM 3. Amend subrule 10.6(2) as follows:

**10.6(2)** An individual producer whose license has expired may seek reinstatement or reissuance as set forth in rule 191—10.9(522B) or 191—10.10(522B), as applicable.

ITEM 4. Amend rule 191—10.9(522B) as follows:

**191—10.9(522B) License reinstatement.**

**10.9(1)** No change.

**10.9(2)** A nonresident producer may reinstate an expired license up to 12 months after the expiration date by submitting a request through the NIPR Gateway and by paying a reinstatement fee and a license renewal fee. A nonresident producer who fails to apply for a license reinstatement within 12 months of the license expiration date or fails to update the nonresident producer's address pursuant to subrule 10.12(3) must apply for license reissuance.

**10.9(3)** A producer who has surrendered a license ~~for a nondisciplinary reason that was not in connection with a disciplinary matter~~ and stated an intent to exit the insurance business may file a request to reactivate the license. The request must be received at the division within 90 days of the date the license was placed on inactive status. The request will be granted if the former producer is otherwise eligible to receive the license. If the request is not received within 90 days, the producer must apply for a new license.

**10.9(4)** A producer whose license was suspended, revoked, forfeited in connection with a disciplinary matter, or forfeited in lieu of compliance is not eligible for reinstatement under this rule and must follow the procedures in rule 191—10.10(522B).

ITEM 5. Amend rule 191—10.10(522B) as follows:

**191—10.10(522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.**

**10.10(1) Terminology.** The term “reinstatement” as used in this rule means the reinstatement of a suspended license. The term “reissuance” as used in this rule means the issuance of a new license following the revocation of a license, the suspension and subsequent termination of a license, or the forfeiture of a license in connection with a disciplinary matter, including but not limited to proceedings pursuant to rule 191—10.21(252J,272D). Disciplinary matters include, but are not limited to, being the subject of an investigation, complaint, or pending administrative action in this or any other state. This rule does not apply to the reinstatement of an expired license or the issuance of a new license that is not in connection with a disciplinary matter.

**10.10(2) Application required.** Any producer whose license has been revoked or suspended by order or who forfeited a license in connection with a disciplinary matter must apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture and submit to a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7.

## INSURANCE DIVISION[191](cont'd)

*a.* All proceedings for reinstatement or reissuance must be initiated by the applicant, who shall file with the commissioner an Iowa Insurance Producer Application for Reinstatement or ~~an Iowa Insurance Producer Application for Reissuance After Disciplinary Action~~. An applicant is not eligible for reinstatement or reissuance until the applicant has satisfied the other prescribed requirements of rule 191—10.4(522B), including the timing requirements of subrule 10.4(4). An applicant may also have to submit a new or renewal producer application through the NIPR Gateway and pay any associated fee.

*b. to f.* No change.

*g.* The period of suspension shall continue, regardless of any specified suspension end date, until such time as the producer's license is reinstated by order.

**10.10(3)** No change.

**10.10(4)** *Order.* An order of reinstatement or reissuance must be a written decision that incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems appropriate, which may include one or more of the types of disciplinary sanctions provided by Iowa Code section 522B.11. The producer's license will be reinstated or reissued on the date of the order, unless the order specifies a different date. The order is a public record and may be disseminated in accordance with Iowa Code chapter 22.

**10.10(5)** No change.

**10.10(6)** *Suspension Reinstatement in relation to expiration date.* ~~When a producer's license has been suspended for a period of time that extends beyond the producer's license expiration date, the license terminates at the license expiration date, and the producer must request reissuance pursuant to subrule 10.10(2). However, reissuance will not be effected until the suspension period has ended. If a producer's ordered suspension for a period of time ends prior to the producer's license expiration date and the producer has met all applicable requirements applies for reinstatement prior to the license expiration date, the commissioner must reinstate the license as soon as practicable but no earlier than the end of the suspension period if the division determines the license should be reinstated after a complete review. However, the commissioner is not prohibited from denying an application for reinstatement or reissuance or bringing an additional immediate action if the producer has engaged in any additional violation of Iowa Code section 507B.4 or 522B.11(1) or otherwise failed to meet all of the applicable requirements.~~

**10.10(7)** *Suspension beyond expiration date.* When a producer's license is suspended beyond the producer's license expiration date, whether due to an ordered suspension time period or failure to apply for reinstatement prior to expiration as stated in subrule 10.10(6), the license terminates on the license expiration date and the producer must apply for reissuance pursuant to subrule 10.10(2).

**10.10(8)** *Application denial or additional action.* The commissioner is not prohibited from denying an application for reinstatement or reissuance or bringing an additional immediate action if the producer has engaged in any additional violation of Iowa Code section 507B.4 or 522B.11(1) or otherwise failed to meet all of the applicable requirements.

ITEM 6. Amend subrule 10.12(1) as follows:

**10.12(1)** If a producer's name is changed, the producer must file notification with the division through the NIPR Gateway at [www.NIPR.com](http://www.NIPR.com), unless the division instructs otherwise, as instructed on the division's website, within 30 days of the name change. The notification must include ~~the producer's:~~

- a.* ~~Prior~~ The producer's prior name;
- b.* ~~License~~ The producer's license number; and
- c.* ~~New~~ The producer's new name; and
- d.* A copy of a legal document with proof of the name change.

ITEM 7. Adopt the following **new** subrule 10.26(8):

**10.26(8)** The fee for a criminal history check as required pursuant to Iowa Code section 522B.5 is \$50.

## INSURANCE DIVISION[191](cont'd)

ITEM 8. Amend rule 191—48.2(508E), introductory paragraph, as follows:

**191—48.2(508E) Definitions.** For purposes of this chapter, the definitions in Iowa Code ~~chapter 508E~~ section 508E.2 are incorporated by reference. In addition to those definitions and the definitions in rule 191—1.1(502,505), the following definitions apply:

ITEM 9. Amend paragraph **48.3(1)“a”** as follows:

a. To be considered for licensure as a viatical settlement provider pursuant to Iowa Code section 508E.3, a person must file with the commissioner a completed viatical settlement provider license application in the format prescribed by the commissioner; submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7; pay an application fee in the amount of \$100; and provide the following:

(1) Copies of the viatical settlement provider’s audited financial statements for the current year and each of the previous five years. At the commissioner’s discretion, the applicant also shall provide a copy of the current year’s consolidated annual audited financial statement with a financial guarantee from the provider’s ultimate controlling person, and copies of the provider’s unaudited financial statements for the current year and each of the previous five years;

(2) to (4) No change.

(5) An independent business character report on the individuals listed in subparagraph (4). The business character report shall be filed directly with the commissioner by the independent third party that certified the report. The business character report shall be in a format prescribed by the commissioner and shall not be older than one year prior to the date the application is filed. For purposes of this subparagraph (5), “business character report” means a statement certified by an independent third party which has conducted a comprehensive review of the applicant’s background and has indicated that the biographical information provided in the report, as completed by the applicant, has no inaccurate or conflicting information. An independent third party is one that has no affiliation with the applicant and is in the business of providing background checks or investigations. Business character reports must be current and shall not be older than one year prior to the date the application is filed. The business character report shall be in the format prescribed by the commissioner;

(6) to (8) No change.

ITEM 10. Amend paragraph **48.3(2)“a”** as follows:

a. To be considered for licensure as a viatical settlement broker pursuant to Iowa Code section 508E.3, a person must file a completed viatical settlement broker license application in the format prescribed by the commissioner, and pay an application fee in the amount of \$100, and submit to a criminal history check and pay the associated fee pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7. In addition to finding compliance with Iowa Code section 508E.3, the commissioner also shall find that the applicant:

(1) to (3) No change.

ITEM 11. Amend subparagraph **48.3(8)“b”(1)** as follows:

(1) All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license. As part of the application, the applicant shall submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7.

ITEM 12. Adopt the following **new** paragraph **48.3(12)“f”**:

f. The fee for a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7, is \$50.

ITEM 13. Amend rule 191—55.1(82GA, HF499), parenthetical implementation statute, as follows:

**191—55.1(82GA, HF499 522C) Purpose.**

## INSURANCE DIVISION[191](cont'd)

ITEM 14. Amend rule 191—55.2(82GA, HF499) as follows:

**191—55.2(82GA, HF499 522C) Definitions.** ~~As used in this chapter~~ In addition to the definitions in Iowa Code section 522C.2 and rule 191—1.1(502,505), the following definitions apply, unless the context otherwise requires:

~~“Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.~~

~~“Catastrophic disaster,” according to the Federal Response Plan, means an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local and private sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the governor of the state or district in which the disaster occurred.~~

~~“Commissioner” means the Iowa insurance commissioner.~~

~~“Division” means the Iowa insurance division.~~

~~“Fingerprints” means an electronic impression of the lines on a human finger taken for the purposes of identification.~~

~~“First-party claim” means a claim filed by a person insured under the insurance policy against which the claim is made the same as defined in Iowa Code section 522C.2.~~

~~“Home state” means the District of Columbia and any state or territory of the United States in which the public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the “home state.”~~

~~“Individual” means a natural person.~~

~~“Insured” means a person insured covered under the insurance policy against which the claim is made.~~

~~“NAIC” means the National Association of Insurance Commissioners.~~

~~“National Insurance Producer Registry” or “NIPR” means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). The NIPR’s website is [www.NIPR.com](http://www.NIPR.com).~~

~~“NIPR Gateway” means the communication network developed and operated by the National Insurance Producer Registry that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of, among other things, public adjuster information regarding license applications, license renewals, appointments and terminations. The National Insurance Producer Registry is a nonprofit affiliate of the NAIC. The NIPR’s Web site is [www.licenseregistry.com](http://www.licenseregistry.com).~~

~~“Person” means an individual or a business entity.~~

~~“Producer database” means the national database of insurance producers maintained by the NAIC.~~

~~“Public adjuster” means any person who, for compensation or any other thing of value, acts on behalf of an insured by doing any of the following: the same as defined in Iowa Code section 522C.2.~~

~~1.—Acting for or aiding an insured in negotiating for or in effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.~~

~~2.—Advertising for employment as a public adjuster of first party claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first party claims for loss or damage to real or personal property of an insured.~~

~~3.—Directly or indirectly soliciting the business of investigating or adjusting losses, or of advising an insured about first party claims for loss or damage to real or personal property of the insured.~~

~~“Uniform business entity application” means the current version of the NAIC’s uniform business entity application for resident and nonresident business entities.~~

~~“Uniform individual application” means the current version of the NAIC’s uniform individual application for resident and nonresident individuals.~~

INSURANCE DIVISION[191](cont'd)

ITEM 15. Amend rule 191—55.3(82GA, HF499), parenthetical implementation statute, as follows:

**191—55.3(82GA, HF499 522C) License required to operate as public adjuster.**

ITEM 16. Amend rule 191—55.4(82GA, HF499) as follows:

**191—55.4(82GA, HF499 522C) Application for license.**

**55.4(1)** A person applying for a public adjuster license shall make application on a uniform individual application or uniform business entity application available from the division by mail, through the division's Web site (~~www.iid.state.ia.us~~) through the NIPR Gateway, or as otherwise directed by the division.

**55.4(2)** Each individual resident applying for a public adjuster license shall ~~be required to submit an electronic set of fingerprints with the application, through the division's testing vendor, which shall be used by the division to determine the eligibility of the applicant for a license~~ submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7.

ITEM 17. Amend rule 191—55.5(82GA, HF499) as follows:

**191—55.5(82GA, HF499 522C) Issuance of resident license.**

**55.5(1) License of individual.** ~~A resident individual acting as a public adjuster is required to obtain a resident public adjuster license. Application shall be made using the uniform individual application.~~ Before approving the an individual's application, the division shall find that the applicant:

a. Either is eligible to designate this state as the individual's home state, or is a nonresident who is not eligible for a license under rule ~~55.8(82GA, HF499)~~ 191—55.8(522C);

b. Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in rule ~~55.17(82GA, HF499)~~ 191—55.17(522C);

c. No change.

d. Is financially responsible to exercise the license and has provided proof of financial responsibility as required in rule ~~55.10(82GA, HF499)~~ 191—55.10(522C);

e. Has paid the fees set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C);

f. and g. No change.

h. Has successfully passed the public adjuster examination pursuant to rule ~~55.6(82GA, HF499)~~ 191—55.6(522C).

**55.5(2) License of business entity.** ~~A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the uniform business entity application.~~ Before approving the a business entity's application, the division shall find that the business entity has:

a. Paid the fees set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C);

b. and c. No change.

**55.5(3)** No change.

ITEM 18. Amend rule 191—55.6(82GA, HF499) as follows:

**191—55.6(82GA, HF499 522C) Public adjuster examination.**

**55.6(1)** A resident individual applying for a public adjuster license under this chapter shall pass a written examination, unless exempt pursuant to rule ~~55.7(82GA, HF499)~~ 191—55.7(522C). The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this rule shall be conducted as prescribed by the division.

**55.6(2)** Each resident individual applying for an examination shall remit a nonrefundable fee as prescribed by the division and set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

**55.6(3)** No change.

**55.6(4)** The division may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the fee set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

## INSURANCE DIVISION[191](cont'd)

ITEM 19. Amend rule 191—55.7(82GA, HF499) as follows:

**191—55.7(82GA, HF499 522C) Exemptions from examination.**

**55.7(1)** An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete an examination in this state. However, an individual who moves to this state and who was previously licensed as a public adjuster in another state based on a public adjuster examination shall make application within 90 days of establishing legal residence to become a resident licensed public adjuster pursuant to rule ~~55.5(82GA, HF499)~~ 191—55.5(522C). No examination shall be required of that individual to obtain a public adjuster license. This exemption is available only:

*a.* and *b.* No change.

**55.7(2)** No change.

ITEM 20. Amend rule 191—55.8(82GA, HF499) as follows:

**191—55.8(82GA, HF499 522C) Nonresident license reciprocity.**

**55.8(1)** Unless denied licensure pursuant to rule ~~55.12(82GA, HF499)~~ 191—55.12(522C), an individual for whom Iowa is not the individual's home state, but whose home state awards nonresident public adjuster licenses to residents of Iowa on the same basis, must satisfy the following requirements to obtain an Iowa nonresident public adjuster license:

*a.* and *b.* No change.

*c.* Pay the appropriate fees required, as set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

**55.8(2)** and **55.8(3)** No change.

**55.8(4)** If an individual's home state does not license public adjusters or does not award nonresident public adjuster licenses to residents of Iowa on the same basis, the nonresident individual shall follow the procedures for obtaining a license set out in rule ~~55.5(82GA, HF499)~~ 191—55.5(522C).

ITEM 21. Amend rule 191—55.9(82GA, HF499) as follows:

**191—55.9(82GA, HF499 522C) Terms of licensure.** Unless denied licensure under this chapter or under ~~2007 Iowa Acts, House File 499, sections 24 to 29 Iowa Code chapter 522C~~, persons who have met the requirements of this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29, Iowa Code chapter 522C~~ shall be issued a public adjuster license.

**55.9(1)** ~~*Content of license.*~~ *Content of license.* The license shall contain the public adjuster's name, city and state of business address, license number, the date of issuance, the expiration date, and any other information the division deems necessary. The license number shall be the same as the public adjuster's National Insurance Producer Registry (NIPR) national producer number (NPN). The division will not send a paper license to the public adjuster, but public adjusters may download and print licenses through the division's ~~Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us)~~ website.

**55.9(2)** ~~*Term of license.*~~ *Term of license.* A public adjuster license shall remain in effect for a term of two years, unless revoked, terminated or suspended, and may be continually renewed as long as the request for renewal is received, the fee set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C) is paid, and any other requirements for license renewal are met by the renewal due date. The license term shall be as follows:

*a.* and *b.* No change.

**55.9(3)** ~~*Suspension for returned payment.*~~ *Suspension for returned payment.* If the division issues or renews a public adjuster license and subsequently determines that payment by check for the license or renewal was returned to the division by a bank without payment, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

**55.9(4)** ~~*Change in name, address or state of residence.*~~ *Change in name, address or state of residence.*

## INSURANCE DIVISION[191](cont'd)

*a. Name change.* If a licensed public adjuster's name is changed, the licensed public adjuster must file notification with the division within 30 days of the name change. ~~Notification may be filed through the NIPR Gateway, if available, or as instructed on the division's website.~~ The notification must include the licensed public adjuster's:

- (1) ~~Former~~ The licensed public adjuster's former name;
- (2) ~~License~~ The licensed public adjuster's license number; and
- (3) ~~New~~ The licensed public adjuster's new name; and
- (4) A copy of a legal document with proof of the name change.

*b. and c.* No change.

~~55.9(5) Reporting of actions. Reporting of actions.~~

*a. to c.* No change.

~~55.9(6) Failure to notify.~~ Failure to notify the division or to file reports required by this rule is a violation of this chapter and will subject licensed public adjusters to penalty pursuant to ~~subrule 55.19(82GA, HF499)~~ rule 191—55.19(522C).

~~55.9(7) Renewal of license. Renewal of license.~~

*a. to c.* No change.

*d.* A resident public adjuster may reinstate an expired license up to 12 months after the license expiration date ~~by submitting a request to the division and by proving that during the applicable continuing education term, the public adjuster met the continuing education requirements found in rule 191—55.11(522C) and by paying a reinstatement fee and license renewal fees, as set forth in rule 55.20(82GA, HF499)~~ 191—55.20(522C). A resident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

*e.* A nonresident public adjuster may reinstate an expired license up to 12 months after the license expiration date by submitting a request to the division through the NIPR Gateway and by paying a reinstatement fee and license renewal fee. A nonresident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date ~~or fails to update the nonresident public adjuster's address pursuant to subrule 55.9(4)~~ must apply for a new license.

*f.* No change.

~~55.9(8) Division functions. Division functions.~~

*a. and b.* No change.

ITEM 22. Amend rule 191—55.10(82GA, HF499), parenthetical implementation statute, as follows:

**~~191—55.10(82GA, HF499) 522C) Evidence of financial responsibility.~~**

ITEM 23. Amend rule 191—55.11(82GA, HF499), parenthetical implementation statute, as follows:

**~~191—55.11(82GA, HF499) 522C) Continuing education.~~**

ITEM 24. Amend rule 191—55.12(82GA, HF499) as follows:

**~~191—55.12(82GA, HF499) 522C) License denial, nonrenewal or revocation.~~**

**55.12(1)** The commissioner may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license; ~~or~~ may levy a civil penalty in accordance with Iowa Code section 505.7A<sub>2</sub>; ~~or may take corrective action pursuant to Iowa Code section 505.8 as amended by 2007 Iowa Acts, House File 499, section 6,~~ or any combination of actions, for any one or more of the following causes:

*a.* No change.

*b.* Failing to complete continuing education as required by rule ~~55.11(82GA, HF499)~~ 191—55.11(522C);

*c. to k.* No change.



## INSURANCE DIVISION[191](cont'd)

*l.* Failing to comply with an administrative or court order imposing a child support obligation, following procedures of ~~rules 191—10.20(522B) and 191—10.21(522B)~~ rule 191—10.21(252J,272D), replacing the ~~word~~ word “producer” with “public adjuster”;

*m.* Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax, following procedures of rule 191—10.21(252J,272D), replacing the word “producer” with “public adjuster”;

*n.* No change.

*o.* Failing to maintain evidence of financial responsibility as required by ~~rule 55.10(82GA, HF499)~~ 191—55.10(522C);

*p.* No change.

*q.* Failing to report to the division any notifications or actions required to be reported pursuant to ~~rule 55.9(82GA, HF499)~~ 191—55.9(522C); or

*r.* No change.

**55.12(2) and 55.12(3)** No change.

**55.12(4)** In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine pursuant to Iowa Code section 505.7A, or to other corrective action pursuant to Iowa Code section 505.8 as ~~amended by 2007 Iowa Acts, House File 499, section 6.~~

**55.12(5)** The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and Iowa Code chapters 505 and 522C against any person who is under investigation for or charged with a violation of this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C, even if the person’s license has been surrendered or has lapsed by operation of law.

ITEM 25. Amend rule 191—55.13(82GA, HF499) as follows:

**191—55.13(82GA, HF499 522C) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.**

**55.13(1) Definitions and scope.** ~~Definitions and scope.~~

*a.* No change.

*b.* The term “reissuance” as used in this rule means the issuance of a new license following ~~either the revocation of a license, the suspension and subsequent termination of a license,~~ or the forfeiture of a license in connection with a disciplinary matter.

*c.* This rule does not apply to the reinstatement of an expired license that is not in connection with a disciplinary matter.

**55.13(2) Application required.** Any person licensed in Iowa as a public adjuster whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

*a.* All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license. As part of the application, the applicant shall submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7.

*b. to d.* No change.

**55.13(3) Proceedings.** All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

**55.13(4) Order.** An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner’s designee deems desirable, which may include one or more of the types of disciplinary sanctions provided by this

INSURANCE DIVISION[191](cont'd)

chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapters 22 and 505.

**55.13(5) *Suspension in relation to expiration date.*** When a public adjuster's license has been suspended for a period of time which extends beyond the public adjuster's license expiration date, the license will terminate at the license expiration date, and the public adjuster must request reinstatement pursuant to subrule 55.10(2). If suspension for a period of time ends prior to the public adjuster's license expiration date and the public adjuster has met all applicable requirements, the division shall reinstate the license at as soon as practicable but no earlier than the end of the suspension period. The commissioner is not prohibited from denying reinstatement or bringing an additional immediate action if the public adjuster has engaged in misconduct during the period of suspension.

**55.13(6) *Voluntary forfeiture.*** A request for submission of voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission ~~of the request~~ unless a contested case proceeding is pending at the time ~~the request is submitted~~ of submission. If a contested case proceeding is pending at the time of the request, the forfeiture shall become effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

**55.13(7) *Forfeiture in lieu of compliance.*** A license may be voluntarily forfeited in lieu of compliance with an order of the commissioner or the commissioner's designee with the written consent of the commissioner. The forfeiture shall become effective when and upon such conditions as required by order of the commissioner, which may include one or more of the types of disciplinary sanctions provided by this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 26. Amend rule 191—55.14(82GA,HF499), parenthetical implementation statute, as follows:

**191—55.14(~~82GA,HF499~~ 522C) Contract between public adjuster and insured.**

ITEM 27. Amend rule 191—55.15(82GA,HF499), parenthetical implementation statute, as follows:

**191—55.15(~~82GA,HF499~~ 522C) Escrow accounts.**

ITEM 28. Amend rule 191—55.16(82GA,HF499), parenthetical implementation statute, as follows:

**191—55.16(~~82GA,HF499~~ 522C) Record retention.**

ITEM 29. Amend rule 191—55.17(82GA,HF499), parenthetical implementation statute, as follows:

**191—55.17(~~82GA,HF499~~ 522C) Standards of conduct of public adjuster.**

ITEM 30. Amend subrule 55.17(3) as follows:

**55.17(3)** A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter or ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 31. Amend rule 191—55.18(82GA,HF499), parenthetical implementation statute, as follows:

**191—55.18(~~82GA,HF499~~ 522C) Public adjuster fees.**

## INSURANCE DIVISION[191](cont'd)

ITEM 32. Amend rule 191—55.19(82GA, HF499) as follows:

**191—55.19(82GA, HF499 522C) Penalties.** Failure to comply with this chapter or with ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C, shall subject a person to penalties set forth in ~~2007 Iowa Acts, House File 499, section 29~~ Iowa Code section 522C.6.

ITEM 33. Amend rule 191—55.20(82GA, HF499), parenthetical implementation statute, as follows:

**191—55.20(82GA, HF499 522C) Fees.**

ITEM 34. Rescind subrule 55.20(2) and adopt the following new subrule in lieu thereof:

**55.20(2)** The fee for a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7, is \$50.

ITEM 35. Amend rule 191—55.21(82GA, HF499), parenthetical implementation statute, as follows:

**191—55.21(82GA, HF499 522C) Severability.**

ITEM 36. Amend **191—Chapter 55**, implementation sentence, as follows:

These rules are intended to implement ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 37. Amend **191—Chapter 55**, Appendix I, paragraph (6), as follows:

(6) An insured may contact the Iowa Insurance Division with questions about insurance law toll-free from within Iowa at (877)955-1212 or through the Division's ~~Web site at [www.iid.state.ia.us](http://www.iid.state.ia.us)~~ website at [iid.iowa.gov](http://iid.iowa.gov).

ITEM 38. Amend rule 191—58.2(510) as follows:

**191—58.2(510) Definitions.** The terms defined in Iowa Code section 510.11 and rule 191—1.1(502,505) shall have the same meaning for the purposes of this chapter. In addition, for purposes of this chapter:

*"Affiliate" or "affiliates"* means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person. For purposes of this definition, "control" (including the terms "controls" or "controlled by") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Iowa Code section 505.23 and Iowa Code chapter 521A that control does not exist in fact. The commissioner may determine, after furnishing notice and opportunity to be heard to all persons in interest and after making specific findings of fact to support the determination, that control exists in fact notwithstanding the absence of a presumption to that effect.

~~*"Commissioner"* means the commissioner of insurance for the state of Iowa.~~

~~*"Division"* means the Iowa insurance division.~~

*"Home state"* means the United States state or territory or the District of Columbia designated by a third-party administrator as its principal regulator, which shall be either its place of incorporation or its principal place of business within the United States. A third-party administrator may designate as its home state any United States jurisdiction in which it does business and which has adopted a law governing third-party administrators substantially similar to Iowa Code chapter 510 and this chapter.

~~*"Insurance producer"* means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance the same as defined in Iowa Code section 522B.1.~~

INSURANCE DIVISION[191](cont'd)

“*Insurer*” means a person engaged in the business of insurance who is regulated under Iowa Code chapter 508, 512B, 514, 514B, 515, or 520.

“*Nonresident third-party administrator*” means a person who is applying for licensure in Iowa, who is licensed in any state other than Iowa, and whose home state is not Iowa.

“*Person*” means any individual, aggregation of individuals, trust, association, partnership, or corporation or an affiliate of any of these.

“*Stop-loss*” or “*stop-loss insurance*” means insurance protecting an employer or other person responsible for an otherwise self-insured health or life benefit plan against higher than expected obligations under the plan.

“*Underwrites*” or “*underwriting*” or “*underwritten*” means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.

ITEM 39. Amend paragraphs **58.3(1)“e”** and “**f**” as follows:

*e.* A person who is not required to be registered as a third-party administrator under Iowa Code chapter 510 or this chapter and who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, only in connection with life, annuity or health coverage provided by a self-funded plan other than a governmental or church plan, shall file a statement with the commissioner triennially, verifying the person’s status as described herein. An example of such a statement may be found on the division’s ~~Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us)~~ website.

*f.* An administrator operating solely as a single-employer trust or Taft-Hartley labor union trust as defined under ERISA shall be required to file a statement triennially, verifying the administrator’s status as described herein. An example of such a statement may be found on the division’s ~~Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us)~~ website.

ITEM 40. Amend rule 191—58.5(510) as follows:

**191—58.5(510) Renewal procedure.** A third-party administrator that wants to maintain its certificate of registration in Iowa shall file a completed request for renewal ~~no later than~~ within 60 days before ~~prior~~ to the expiration date on the certificate of registration.

**58.5(1)** and **58.5(2)** No change.

**58.5(3)** Renewal requests filed after the ~~60-day period specified~~ certificate expiration date must include the late fee specified in rule 191—58.18(510).

**58.5(4)** No change.

**ARC 5132C**

## **MEDICINE BOARD[653]**

### **Notice of Intended Action**

#### **Proposing rule making related to the Iowa physician health committee and the Iowa physician health program and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 14, “Iowa Physician Health Committee,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272C.3.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272C.3.

## MEDICINE BOARD[653](cont'd)

*Purpose and Summary*

As part of its regular review of administrative rules, the Iowa Physician Health Program (IPHP) staff proposes these amendments to streamline, clean up, and clarify the rules governing the program and Iowa Physician Health Committee (IPHC).

Among other things, these amendments:

- Add the following defined terms: “IPHP,” “applicant,” “licensee,” and “mental disorder.”
- Update the definition of “impairment” to align with the definition used by the Federation of State Medical Boards and Federation of State Physician Health Programs.
- Specify that the Board’s Medical Director or Executive Director may serve as a member of the IPHC.
- Specify that the Board’s Medical Director or Co-Chairperson can provide guidance to staff in between meetings.
- Clarify that the length of a contract with the IPHP may range from one to five years depending on the individual licensee’s circumstances.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

Joseph Fraioli  
Iowa Board of Medicine  
400 SW Eighth Street, Suite C  
Des Moines, Iowa 50309  
Phone: 515.281.3614  
Email: [joseph.fraioli@iowa.gov](mailto:joseph.fraioli@iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 305.912.3976. When prompted, enter PIN: 639 231 381#. Please mute your phones or microphones upon entering the meeting.

September 2, 2020  
1 to 2 p.m.

[meet.google.com/teb-xwca-kgk](https://meet.google.com/teb-xwca-kgk)  
Google Meet Location

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

## MEDICINE BOARD[653](cont'd)

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **653—Chapter 14**, title, as follows:

IOWA PHYSICIAN HEALTH COMMITTEE—IOWA PHYSICIAN HEALTH PROGRAM

ITEM 2. Amend rules 653—14.1(272C) to 653—14.6(272C) as follows:

**653—14.1(272C) Iowa physician health committee—Iowa physician health program.**

**14.1(1) Iowa physician health committee.** Pursuant to the authority of Iowa Code section 272C.3(1) "k," the board establishes the Iowa physician health committee, ~~formerly known as the impaired physician review committee.~~

**14.1(2) Iowa physician health program.** To assist in executing its duties under Iowa Code section 272C.3(1) "k," the committee establishes the Iowa physician health program. The program shall operate under the direction of the committee and shall be supervised by the executive director of the board.

**653—14.2(272C) Definitions.**

"Applicant" means any person who has submitted an application to the board for a license to practice medicine, acupuncture, or genetic counseling.

"Board" means the board of medicine of the state of Iowa.

"Health contract" or "contract" means the written document executed by an applicant or licensee and the IPHC which establishes the terms for participation in the Iowa physician health program.

"Impairment" means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, "impairment" does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder. any of the following that renders or, if left untreated, is reasonably likely to render a licensee unable to practice their profession with reasonable skill and safety:

1. Mental disorder;
2. Physical illness or condition, including but not limited to those illnesses or conditions that would adversely affect cognitive, motor, or perceptive skills; or
3. Substance-related disorder, including abuse of or dependence on drugs or alcohol.

"Initial Agreement agreement" means the written document establishing the initial terms for participation in the Iowa physician health program.

"IPHC" or "committee" means the Iowa physician health committee.

"IPHP" or "program" means the Iowa physician health program.

"Licensee" means any person who has an Iowa license to practice medicine, acupuncture, or genetic counseling issued by the board.

"Mental disorder" means any disorder, condition, illness, or syndrome characterized by a clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in social, occupational, or other important activities.

## MEDICINE BOARD[653](cont'd)

~~“Participant” means an applicant or licensee who does any of the following: self-reports an impairment to the Iowa physician health program, is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C); signs an initial agreement with the Iowa physician health committee; or signs a contract with the Iowa physician health committee.~~

~~“Prospective participant” means a licensee or applicant who self-reports an impairment to the Iowa physician health program or is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C).~~

~~“Referral by the board” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the IPHP pursuant to 653—14.11(272C).~~

~~“Self-report” means an applicant’s or a licensee’s providing written notification to the IPHC that the applicant or the licensee has been, is, or may be impaired. Information related to an impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report upon the request of the applicant or licensee and authorization from the board and agreement by the IPHC.~~

**653—14.3(272C) Purpose.** ~~The IPHC assists and monitors and IPHP assist and monitor the recovery, rehabilitation, or maintenance of licensees who self-report impairments or are referred by the board pursuant to 653—14.11(272C) and, as necessary, notifies notify the board in the event of noncompliance with contract provisions. The IPHC is and IPHP both an advocate for licensees’ health and a means to protect promote and protect the health and safety of the public.~~

**653—14.4(272C) Organization of the committee.** The board shall appoint the members of the IPHC.

**14.4(1) Membership.** The membership of the IPHC includes, but is not limited to:

~~a. The executive medical director of the board or the director’s designee from the board’s staff executive director of the board;~~

~~b. to e. No change.~~

**14.4(2) Officers.** The IPHC shall elect ~~a chairperson and a co-chairperson or a vice chairperson~~ two co-chairpersons at the last meeting of each calendar year to begin serving a one-year term on January 1.

~~a. The chairperson and A co-chairperson are is responsible for presiding over IPHC meetings.~~

~~b. The medical director and co-chairpersons are responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice on behalf of the committee. The IPHC retains authority to review all interim decisions at its discretion.~~

~~b. c. The vice chairperson A co-chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson medical director is unavailable or unable to assist in a particular matter.~~

**14.4(3) Terms.** Committee members, except the ~~executive director~~ medical director, shall be appointed for three-year terms, for a maximum of three terms. Terms shall expire on December 31 of the third year of the term.

**653—14.5(272C) Eligibility.** To be eligible for participation in the IPHP, an applicant or a licensee must self-report an impairment or potential impairment directly to the IPHP or be referred by the board for an impairment or potential impairment pursuant to 653—14.11(272C) and be determined by the IPHC to be an appropriate candidate for participation in the IPHP.

**14.5(1)** No change.

**14.5(2)** ~~A participant~~ prospective participant may be determined to be ineligible to participate in the program as a self-reporter or a referral from the board if the committee finds sufficient evidence of any of the following:

~~a. The participant~~ prospective participant provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the IPHC.

~~b. The participant~~ prospective participant fails to sign a contract when recommended by the IPHC.

## MEDICINE BOARD[653](cont'd)

c. The IPHC determines it will be unable to assist the ~~participant~~ prospective participant.

**14.5(3)** No change.

**653—14.6(272C) Type of program.** The IPHP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the participant. The committee, in consultation with ~~an IPHC-approved evaluator~~ committee-approved evaluators and treatment providers, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the participant's impairment based on the diagnosis and treatment recommendations from the evaluator or treatment provider. The IPHC shall prepare a contract, to be signed by the participant, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein. The IPHC may delegate its obligations and duties under these rules to the IPHP staff and the medical director as appropriate pursuant to policies and procedures adopted by the IPHC.

ITEM 3. Amend subrule 14.7(1) as follows:

**14.7(1) Duration.** ~~The length of time a participant may participate in the program shall be determined by the IPHC in accordance with the following:~~ Length of participation in the program can vary from one to five years depending on the individual participant's diagnosis, recommendations from approved evaluators and treatment providers, and the IPHC following a review of all relevant information. A contract shall only terminate once the IPHC has determined that the licensee is no longer impaired.

~~a.—Participation in the program for participants impaired as a result of alcohol or drug dependency or addiction is set at a minimum of five years. The IPHC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's physician health program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.~~

~~b.—Length of participation in the program for participants with impairments resulting from mental or physical disorders or disabilities will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPHC following review of all relevant information.~~

ITEM 4. Amend rule 653—14.11(272C) as follows:

**653—14.11(272C) Board referrals to the Iowa physician health program.**

**14.11(1) Eligibility for board referral to IPHP.** The board may refer to the IPHP a licensee or applicant for whom the following circumstances apply:

a. No change.

b. The board determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

~~NOTE: A licensee who is the subject of a formal board disciplinary order relating to an impairment must demonstrate a sufficient period of compliance with the disciplinary order before referral to the IPHP.~~

c. No change.

**14.11(2) Referral process.**

a. to d. No change.

~~e.—Upon notification that the contract has been finalized for a participant who is the subject of a formal board disciplinary order relating to the impairment, the board shall file an order referring the licensee to the IPHP, and that order shall be a public record.~~

~~f. e.~~ f. e. The IPHC shall notify the board upon the participant's successful completion of the program. The board may file an order recognizing the participant's successful completion of the program in cases where the referral was included in a public record. An order recognizing completion of the program shall be a public record.

~~g. f.~~ g. f. Referral of an applicant or licensee by the board to the IPHP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the applicant or licensee shall be subject to the provisions of 653—Chapter 14.



## MEDICINE BOARD[653](cont'd)

Specifically, the applicant or licensee shall be subject to board review and potential formal disciplinary action pursuant to subrule 14.7(2) for noncompliance with the provisions of the IPHP health contract.

~~14.11(3) Investigation and disciplinary action on referrals. Rescinded IAB 6/30/10, effective 8/4/10.~~

ITEM 5. Amend **653—Chapter 14**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.3 as amended by 2003 Iowa Acts, House File 641, section 6.

**ARC 5133C**

**MEDICINE BOARD[653]**

**Notice of Intended Action**

**Proposing rule making related to physician supervision of physician assistants and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 21, “Physician Supervision of a Physician Assistant,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272C.3 and 2020 Iowa Acts, Senate File 2357.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2357.

*Purpose and Summary*

In 2020, the Iowa General Assembly passed Senate File 2357, which makes several changes to the regulation of physician assistants in Iowa. Specifically, these proposed amendments address changes to the obligations of supervising physicians and supervisory agreements with physician assistants.

These proposed amendments also clarify that a supervising physician shall not supervise more than five physician assistants pursuant to Iowa Code section 148C.3(2) as an eligibility criterion for being a supervising physician.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 2, 2020. Comments should be directed to:

## MEDICINE BOARD[653](cont'd)

Joseph Fraioli  
 Iowa Board of Medicine  
 400 SW Eighth Street, Suite C  
 Des Moines, Iowa 50309  
 Phone: 515.281.3614  
 Email: [joseph.fraioli@iowa.gov](mailto:joseph.fraioli@iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 502.382.4450. When prompted, enter PIN: 756 685 379#. Please mute your phones or microphones upon entering the meeting.

September 2, 2020  
 2 to 3 p.m.

[meet.google.com/zpn-yudi-jvb](https://meet.google.com/zpn-yudi-jvb)  
 Google Meet Location

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 653—21.1(148,272C) as follows:

**653—21.1(148,272C) Ineligibility determinants.** A physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant. A physician is ineligible to supervise a physician assistant for any of the following reasons:

**21.1(1)** The physician does not hold an active, permanent, special or temporary Iowa medical license.

**21.1(2)** The physician is subject to a disciplinary order of the board that restricts or rescinds the physician's authority to supervise a physician assistant. The physician may supervise a physician assistant to the extent that the order allows.

**21.1(3)** The physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

**21.1(4)** The physician is already supervising five physician assistants.

ITEM 2. Amend rule 653—21.4(148,272C) as follows:

**653—21.4(148,272C) Supervisory agreements.**

**21.4(1)** ~~Each~~ A physician who supervises a physician assistant shall establish a written supervisory agreement prior to supervising a physician assistant. A sample supervisory agreement form is available from the board. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement shall take into account the physician assistant's demonstrated skills, training and experience, proximity of the

## MEDICINE BOARD[653](cont'd)

supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician shall maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement shall, at a minimum, address the following provisions.

~~21.4(1) a. *Review of requirements.* The supervisory agreement shall include a provision which ensures that the supervising physician and the physician assistant shall review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code section 148.13 and chapter 148C, this chapter these rules, and 645—Chapters 326 to 329.~~

~~21.4(2) b. *Assessment of education, training, skills, and experience.* The supervisory agreement shall include a provision which ensures that each Each supervising physician assesses shall assess the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant shall ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. Thereafter, each supervising physician shall regularly evaluate the clinical judgment, skills, performance and patient care of the physician assistant and shall provide appropriate feedback to the physician assistant. The method for assessing and providing feedback regarding the physician assistant's education, training, skills, and experience shall be reflected in the supervisory agreement.~~

~~21.4(3) 21.4(2) *Delegated services.* The supervisory agreement shall include a provision which addresses the services the supervising physician delegates to the physician assistant. between the physician assistant and the physician shall address all of the following:~~

~~a. *The medical services the supervising physician delegates to the physician assistant.* The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with 645—subrule 327.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant. The supervising physician and the physician assistant shall have the education, training, skills, and relevant experience necessary to perform the delegated services prior to delegation.~~

~~21.4(4) *Communication.* The supervisory agreement shall include a provision which sets forth expectations for communication. Each supervising physician and physician assistant shall communicate about and consult on patient complaints, medical problems, complications, emergencies, and patient referrals as indicated by the clinical condition of the patient. The supervising physician shall be available for timely consultation with the physician assistant, either in person or by telephonic or other electronic means. The supervisory agreement shall also include a provision which ensures that each supervising physician and physician assistant~~

~~b. *Methods for communication between the physician assistant and the physician and whether the physician assistant practices at the same site or a remote site.* Each supervising physician and physician assistant shall conduct ongoing discussions and evaluation of the supervisory agreement, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted.~~

~~21.4(5) *Chart review.* The supervisory agreement shall include a provision which sets forth the plan for completing and documenting chart reviews. Documentation may include, but is not limited to, the supervising physician's placing the supervising physician's signature or initials on the charts reviewed. Each supervising physician shall ensure that~~

~~(1) *The plan for completing and documenting chart reviews.* A licensed physician within the same facility or health care system as the physician assistant shall conduct an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice provided under the physician's supervision occurs and that the findings of the review are discussed with the physician assistant. The finding of the review shall be discussed with the physician assistant in a manner determined by the practice in consultation with the physician assistant's primary supervising physician.~~

MEDICINE BOARD[653](cont'd)

~~21.4(6)~~ (2) *Remote medical site.* Remote medical site. “Remote medical site” means a medical clinic for ambulatory patients which is more than 30 miles away from the main practice location of the supervising physician and in which the supervising physician is present less than 50 percent of the time when the remote medical site is open. “Remote medical site” will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility). The supervisory agreement shall include a provision which ensures that the supervising physician visits the remote medical site, or communicates with a physician assistant at the remote medical site via electronic communications, at least every two weeks to provide additional medical direction, medical services and consultation specific to the medical services provided at the remote medical site. For purposes of this ~~subrule~~ subparagraph, communication may consist of, but shall not be limited to, in-person meetings or two-way, interactive communication directly between the supervising physician and the physician assistant via the telephone, secure messaging, electronic mail, or chart review. ~~The supervisory agreement shall also include a provision which ensures that at least one supervising physician meets in person, and documents the meeting, with the physician assistant at the remote medical site at least once every six months to evaluate and discuss the medical facilities, resources, and medical services provided at the remote medical site.~~ The board shall only grant a waiver or variance of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this ~~rule~~ subparagraph.

~~21.4(7)~~ (3) *Alternate supervision.* The expectations and plan for alternate supervision. The supervisory agreement shall include a provision which sets forth the expectations and plan for alternate supervision. If the supervising physician will not be available for any reason, an alternate supervising physician must be available to ensure continuity of supervision. The supervising physician will ensure that the alternate supervising physician is available for a timely consultation and will ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician. ~~The physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or 645— Chapters 326 to 329.~~

## ARC 5126C

### REAL ESTATE APPRAISER EXAMINING BOARD[193F]

#### Notice of Intended Action

#### Proposing rule making related to rules review and providing an opportunity for public comment

The Real Estate Appraiser Examining Board hereby proposes to amend Chapter 1, “Organization and Administration,” Chapter 4, “Associate Real Property Appraiser,” Chapter 5, “Certified Residential Real Property Appraiser,” Chapter 6, “Certified General Real Property Appraiser,” Chapter 7, “Disciplinary Actions Against Certified and Associate Appraisers,” Chapter 9, “Renewal, Expiration and Reinstatement of Certificates and Registrations, and Inactive Status,” Chapter 10, “Reciprocity,” Chapter 11, “Continuing Education,” Chapter 12, “Fees,” Chapter 15, “Supervisor Responsibilities,” and Chapter 17, “Superintendent Supervision Standards and Procedures,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

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

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

*Purpose and Summary*

These proposed amendments implement what the Board considers to be higher priority changes based on a full review of its rules. These amendments will reduce conflict between the rules and statutes, reduce conflict within the rules, better follow current application practices, clarify rules, and lower fees.

*Fiscal Impact*

There are approximately 1,138 certified appraisers in Iowa who currently pay \$390 to renew their license every two years. Reducing renewal fees to \$280 (\$200 renewal and \$80 Appraisal Subcommittee fee) from the current \$390 fee will reduce funds to the Board/Division of Banking by \$125,180 every two years. In addition, there are 82 associate appraisers who will pay reduced fees resulting in \$12,300 of loss revenue every two years. There are some additional fees being implemented; however, they will not have a significant fiscal impact.

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

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

*Public Hearing*

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

September 1, 2020  
10 to 11 a.m.

Small Conference Room, Third Floor  
200 East Grand Avenue  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

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

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.2(5) as follows:

**1.2(5)** A person aggrieved by any final action of the board taken under Iowa Code chapter 543D or 193F—Chapter 17 may appeal that action to the superintendent within 20 days of the date the board issues the action.

*a.* and *b.* No change.

*c.* Records, filings, and requests for public information. Final board action which is ministerial or nondiscretionary is, regardless of whether such board action is ministerial, nondiscretionary, or discretionary, shall be immediately effective when issued by the board but is subject to review or appeal to the superintendent as permitted by and in accordance with 193F—Chapter 17. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action shall be delayed during the pendency of such review or appeal.

*d.* ~~Records, filings, and requests for public information. Unless otherwise provided by rule of the board, final board action which is discretionary shall be effective upon the expiration of 20 days following issuance of the board's action if not timely reviewed by or appealed to the superintendent or upon final action by the superintendent if timely reviewed or appealed.~~

ITEM 2. Amend rule 193F—1.21(543D) as follows:

**193F—1.21(543D) National criminal history check.** ~~Effective January 1, 2017, all~~ All applicants for any of the classifications listed in 193F—1.17(543D), including an applicant seeking to upgrade from a certified residential credential to a certified general credential, must satisfactorily complete a state and national criminal history check as ~~provided in Iowa Code section 543D.22~~ as a condition of registration as an associate real property appraiser, ~~or certification as a residential,~~ or certification as or upgrade to a general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. ~~Unless~~ If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board ~~shall~~ may perform a new state and national criminal history check or may reject and return the application to the applicant.

ITEM 3. Adopt the following new rule 193F—1.23(272C,543D):

**193F—1.23(272C,543D) Applications.** Unless otherwise provided by rule of the board, abandoned applications shall be deemed withdrawn. An application is abandoned if the applicant has not accessed or modified the application through the board's electronic licensing database within the preceding six months. For purposes of this rule, "application" means any request, application, registration, or petition submitted to the board through the licensing database, including but not limited to the following:

1. Add supervisor appraiser;
2. Associate appraiser registration;
3. Conversion application;
4. Course application;
5. Course instructor application;
6. Course provider application;
7. Examination and experience application;
8. Formal wall certificate request;
9. Pre-/post-course approval request;
10. Reactivation application;
11. Reciprocity application;
12. Reinstatement application;
13. Removal of associate from supervisor;
14. Removal of supervisor from associate;

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

15. Renewal application;
16. Temporary practice permit application;
17. General application to apply military service to an experience or educational requirement for licensure;
18. Background packet request;
19. Petition for waiver from administrative rules;
20. Request for change of legal name;
21. Request for verification (license and/or examination history); or
22. Request to change license address.

ITEM 4. Amend subrule 4.1(1) as follows:

**4.1(1) Education.**

*a.* A person applying for registration as an associate appraiser shall, at a minimum, satisfactorily complete ~~the following~~ all AQB-approved, qualifying education modules courses required under the current AQB criteria specifying educational standards applicable for certification as a certified residential appraiser or certified general appraiser. Each required course must be completed before the person can obtain an associate credential.

- ~~(1) The 30-hour module on basic appraisal principles;~~
- ~~(2) The 30-hour module on basic appraisal procedures; and~~
- ~~(3) The 15-hour national USPAP course or its equivalent.~~

*b.* The initial qualifying education must be completed no more than five years prior to the date of application. Credit toward all or part of the core criteria qualifying education requirements in this rule may also be obtained via the completion of a degree in real estate from an accredited degree-granting college or university, provided that the college or university has had its curriculum reviewed and approved by the AQB and so long as the degree was granted no more than five years prior to the date of application.

ITEM 5. Amend subrule 4.1(3) as follows:

**4.1(3) Background check.** ~~Effective January 1, 2017, a~~ A state and national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any new associate appraiser. The applicant shall authorize release of the results of the criminal history check to the board. Unless if the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board shall may perform a new state and national criminal history check or may reject and return the application to the applicant.

ITEM 6. Amend rule 193F—4.2(543D) as follows:

**193F—4.2(543D) Supervision of associate appraisers.**

**4.2(1) Direct supervision.** An associate appraiser is subject to the direct supervision of a certified real property appraiser. Qualifications for a supervisory appraiser are outlined in 193F—Chapter 15. An associate appraiser may be supervised by more than one supervisory appraiser.

**4.2(2) Supervisor registration.** An associate appraiser shall identify all supervisors who the associate will be supervised by on forms provided by the board and shall promptly notify the board in the event of an addition of a, or change in, supervisor or if the associate will no longer be supervised by a previously identified supervisor. An associate appraiser who does not have at least one approved active supervisor meeting the requirements of 193F—Chapter 15 will be placed in inactive status until such time as the associate finds a supervisor meeting the requirements of 193F—Chapter 15. Associate appraisers wishing to maintain an inactive license must continue to renew on a biennial basis in accordance with rule 193F—4.3(543D).

**4.2(2) 4.2(3) Scope of practice.** The scope of practice of an associate appraiser is the same as the scope of practice of the supervisory appraiser. An associate appraiser supervised by a certified residential appraiser shall accordingly be restricted to the scope of practice of a certified residential appraiser, while an associate appraiser supervised by a certified general appraiser shall be subject to the same scope of practice as a certified general appraiser.

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

~~4.2(3)~~ **4.2(4)** *Logs.* An associate appraiser shall maintain an appraisal experience log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. Every log page shall have the signatures of the associate appraiser and supervisory appraiser, the state certification number of the supervisory appraiser, and the date of signature. Required log entries shall, at a minimum, include the following for each appraisal:

- a. Type of property;
- b. Date of report;
- c. Address of appraised property;
- d. ~~Description~~ A specific description of work performed by the associate appraiser and scope of review and supervision of the supervisory appraiser; ~~and~~
- e. Number of actual work hours by the associate on the assignment; and
- f. The approach(es) to value utilized in the report.

~~4.2(4)~~ **4.2(5)** *Monitoring of logs.* The associate appraiser shall have the appraisal log reviewed and signed by the supervisory appraiser at least monthly. Upon written request by the board, the associate appraiser and the supervisory appraiser shall submit a copy of the associate appraiser's log by letter or email within ten calendar days. The failure of an associate appraiser or supervisory appraiser to submit the requested log is a ground for disciplinary action. A separate appraisal log shall be maintained for each supervisory appraiser.

ITEM 7. Amend rule 193F—4.6(272C,543D) as follows:

**193F—4.6(272C,543D) Reinstating or reactivating an associate registration.**

**4.6(1)** In order to reinstate or reactivate an associate registration that has lapsed or been placed in inactive status ~~for longer than 12 months~~, the applicant must complete all continuing education required for reinstatement pursuant to 193F—subrule 11.2(5). For purposes of this rule, in addition to the most recent edition of a seven-hour USPAP course, the board shall allow for continuing education only those courses that have been AQB-approved as qualifying education required for certification, as outlined in rules 193F—5.2(543D) and 193F—6.2(543D). The purpose of this requirement is to ensure that those associates reinstating a lapsed or inactive registration are progressing toward certification. Any qualifying education course taken under this rule as continuing education shall also apply as qualifying education toward certification. If the applicant has completed all qualifying education prior to applying to reinstate a lapsed or inactive associate registration, the applicant may use any approved continuing education course as provided in 193F—Chapter 11, in addition to the required seven-hour USPAP update course, toward the continuing education required for reinstatement.

**4.6(2)** If an appraiser's registration is placed in inactive status as a result of the appraiser's failure to maintain at least one approved active supervisor meeting the requirements of 193F—Chapter 15 pursuant to subrule 4.2(2), the applicant must complete the continuing education required by subrule 4.6(1) in order to reinstate the associate registration but is not required to pay any fee that would otherwise be required in connection with such reinstatement so long as the associate has not renewed the registration to inactive status or allowed the registration to lapse prior to reinstating or reactivating the registration.

ITEM 8. Amend subrules 5.5(1) to 5.5(3) as follows:

**5.5(1)** The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include all information as described in ~~193F—subrule 4.2(3)~~ 193F—subrule 4.2(4).

**5.5(2)** The applicant shall accumulate a total of 1,500 hours of residential appraisal experience in no fewer than 12 months while in active status. While the hours may be cumulative, the 12 months must have elapsed before the applicant can apply to take the examination. Experience claimed must have been performed in compliance with USPAP in which the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:



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

- a. Fee and staff appraisal;
- b. Ad valorem tax appraisal;
- c. Review appraisal;
- d. Appraisal analysis;
- e. Appraisal consulting;
- f. Highest and best use analysis; ~~and~~
- g. Feasibility analysis/study; and
- h. Mass appraisal.

**5.5(3)** The types of experience set out in 5.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience. A diversity of experience includes, but is not limited to, the following:

- a. Performing all approaches to value (i.e., cost, income, sales);
- b. Various reporting types;
- c. Appropriate use of various forms (e.g., gPAR, 1004) and formats;
- d. Various property types (e.g., vacant land, condominium, manufactured home, and rental);
- e. Various assignments that include varying scopes of work (e.g., as is, as completed or proposed, foreclosure, rural properties, estates, use of extraordinary assumption or hypothetical conditions); and
- f. Diversity in value ranges.

ITEM 9. Rescind subrule **5.6(11)**.

ITEM 10. Amend rule 193F—5.7(543D) as follows:

**193F—5.7(543D) Upgrade to a certified general real property appraiser.** To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, supervision, and experience requirements and, ~~effective January 1, 2017,~~ a state and national criminal history check as provided in Iowa Code section 543D.22. For all intents and purposes, a certified residential appraiser seeking to upgrade to a certified general status will be considered an associate appraiser as it relates to differences between the scope of practice of the two licensure categories, and the upgrade process will generally follow the same registration requirements, supervisory identification and maintenance requirements, and processes and procedures generally applicable to associate appraisers set forth in 193F—Chapter 4.

**5.7(1) Education.**

a. *Collegiate education.* Certified residential real property appraisers must satisfy the college-level education requirements as specified in rule 193F—6.2(543D).

b. *Core criteria.* In addition to the formal education and core criteria educational requirements originally required to obtain a certified residential credential, an applicant must complete the following additional 100 creditable, core criteria class hours before taking the AQB-approved examination. All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 100 hours consist of the following:

- |  |          |
|--|----------|
| (1) General appraiser market analysis and highest and best use | 15 hours |
| (2) General appraiser sales comparison approach                | 15 hours |
| (3) General appraiser site valuation and cost approach         | 15 hours |
| (4) General appraiser income approach                          | 45 hours |
| (5) General appraiser report writing and case studies          | 10 hours |

**5.7(2) Examination.** An applicant must satisfy the examination requirements as specified in rule 193F—6.3(543D).

**5.7(3) Experience Supervision and experience.**

a. *Experience.* An applicant must satisfy all of the experience requirements as specified in ~~rule~~ rules 193F—6.4(543D) and 193F—6.5(543D). In obtaining and documenting the 3,000 total experience hours required by 193F—subrule 6.5(2), as is the case for initial licensure, such hours must

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

be accumulated in no fewer than 18 months while in active status as, in effect, a registered associate appraiser pursuing an upgrade pursuant to this rule and subject to the supervision of an Iowa-certified appraiser. Notwithstanding the foregoing:

(1) To the extent residential appraisal experience may be counted towards licensure in accordance with 193F—subrule 6.5(2), residential appraisal experience obtained as a certified residential appraiser prior to initiating the upgrade process may be included on the appraisal log and, subject to the work product review process, counted towards the experience-hours requirement for purposes of upgrading from a certified real property appraiser to a certified general real property appraiser; provided that such residential appraisal experience obtained prior to initiating the upgrade process shall not apply toward the 18-month requirement.

(2) Applicants may request that the board approve experience hours performed in the absence of registration as an associate real property appraiser by filing an application for approval on a form provided by the board, which application will be subject to and governed by the same processes and standards set forth in rule 193F—6.4(543D).

*b. Supervision.* Subject to applicable exceptions, all nonresidential experience obtained and applied toward obtaining a certified general credential as part of the upgrade process shall be performed under the direct supervision of a certified general real property appraiser pursuant to the provisions of 193F—Chapter 15 and shall be subject to the identification, notification, maintenance, approval, scope-of-practice, log, and monitoring requirements set forth in 193F—Chapter 4. Both the applicant and the applicant's supervisor(s) must complete a supervisor/trainee course within the five years prior to the board's receipt of the associate registration application identifying a supervisor with the board or prior to the applicant's obtaining or claiming any experience hours under the supervision of that supervisor.

**5.7(4)** No change.

**5.7(5) Background check.** ~~Effective January 1, 2017, a~~ A state and national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a certified general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. ~~Unless~~ If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board ~~shall~~ may perform a new state and national criminal history check or may reject and return the application to the applicant.

ITEM 11. Amend subrules 6.5(1) to 6.5(3) as follows:

**6.5(1)** The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include all information as described in ~~193F—subrule 4.2(3)~~ 193F—subrule 4.2(4).

**6.5(2)** The applicant shall accumulate a total of 3,000 hours of appraisal experience in no fewer than 18 months while in active status, of which 1,500 hours must consist of nonresidential appraisal experience. While the hours may be cumulative, the 18 months must have elapsed before an applicant can be certified. Experience claimed must have been performed in compliance with USPAP where the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:

- a. Fee and staff appraisal;
- b. Ad valorem tax appraisal;
- c. Review appraisal;
- d. Appraisal analysis;
- e. Appraisal consulting;
- f. Highest and best use analysis; ~~and~~
- g. Feasibility analysis/study; ~~and~~
- h. Mass appraisal.

**6.5(3)** The types of experience set out in 6.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot

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

demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience. A diversity of experience includes, but is not limited to, the following:

- a. Performing all approaches to value (i.e., cost, income, sales);
- b. Various reporting types;
- c. Appropriate use of various forms (e.g., gPAR, 1004) and formats;
- d. Various property types (e.g., vacant land, single-family, multifamily, agricultural, retail, industrial, and special purpose);
- e. Various assignments that include varying scopes of work (e.g., as is, as completed or proposed, foreclosure, rural properties, acreages, estates, eminent domain, use of extraordinary assumption or hypothetical conditions); and
- f. Diversity in value ranges.

ITEM 12. Rescind subrule **6.6(11)**.

ITEM 13. Amend rule 193F—6.7(543D) as follows:

**193F—6.7(543D) Background check.** ~~Effective January 1, 2017, a~~ A state and national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a new credential. The applicant shall authorize release of the results of the criminal history check to the board. Unless ~~If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board shall~~ may perform a new state and national criminal history check or may reject and return the application to the applicant.

ITEM 14. Amend subrule 7.3(9) as follows:

**7.3(9) Failure to report.**

- ~~a. to e.~~ No change.
- f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within ~~40~~ 30 calendar days of such change; or failure to report to the board all other addresses at which the appraiser engages in the business of preparing real estate appraisal reports, or any change in such information, within 30 calendar days of such occurrence or change.
- ~~g.~~ No change.

ITEM 15. Adopt the following **new** subrule 9.1(4):

**9.1(4)** With the exception of continuing education obtained during the 30-day grace period authorized by and subject to and in accordance with subrule 9.4(2), all continuing education claimed on a biennial renewal must have been acquired during the renewal period. In addition, all continuing education claimed on a biennial renewal must have been actually taken and completed prior to the renewal application being submitted to the board.

ITEM 16. Amend subrule 9.2(2) as follows:

**9.2(2)** Certified and associate appraisers must ensure that ~~the address~~ their contact information on file with the board office is current and that the board is notified within 30 days of any address change, and report to the board all other addresses at which the appraiser engages in the business of preparing real estate appraisal reports, or any change in such information, within 30 calendar days of any addition or change thereto.

ITEM 17. Amend subrule 9.3(4) as follows:

**9.3(4) Insufficient applications.** The board shall reject applications that are insufficient. A sufficient application within the meaning of Iowa Code section 17A.18(2) must:

- a. Be on a form prescribed by the board or, in the event there are no paper forms, be submitted through the state's database;
- ~~a. b.~~ Be signed by the applicant, ~~if submitted in person or mailed,~~ or be certified as accurate, or display an electronic signature by the applicant if submitted electronically;
- ~~b. c.~~ Be fully completed;

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

~~e. d.~~ Reflect, on its face, full compliance with all applicable continuing education requirements; and

~~d. e.~~ Be accompanied by the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or written on a closed account.

ITEM 18. Amend subrule 9.4(2) as follows:

**9.4(2)** A certified or associate appraiser may renew a certificate or registration after the expiration date by submitting a sufficient renewal application and biennial renewal fee, accompanied by ~~an additional penalty of 25 percent of the biennial renewal fee~~ the late renewal fee as provided in 193F—Chapter 12, within 30 calendar days of the expiration date. The board will allow the reinstatement of a lapsed certificate or registration during the 30-day period following expiration for an appraiser who did not complete all required continuing education during the prior biennium but who will have sufficient continuing education if courses completed during the 30-day period following lapse are included; ~~provided that such applicant must demonstrate 42 hours of qualifying continuing education rather than the 28 hours required to renew for those who completed all continuing education on a timely basis prior to the lapse.~~ The continuing education completed between July 1 and July 30 that fulfills a shortage of continuing education in the prior biennium shall not be counted toward the continuing education required in a subsequent renewal.

ITEM 19. Amend subrule 9.4(5) as follows:

**9.4(5)** Reinstatement. The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided in rule 193F—12.1(543D); and
- b. Paying the current renewal fee as provided in rule 193F—12.1(543D); and
- c. Paying the ASC National Registry fee as provided in rule 193F—12.1(543D); and
- ~~e. d.~~ Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and
- ~~d. e.~~ Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's certificate or registration was lapsed. The statement shall describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that are required by federal or state law, rule, or policy to be performed by a certified real estate appraiser.

ITEM 20. Amend subrule 9.5(6) as follows:

**9.5(6)** *Reactivation.* A person registered as inactive shall apply to reactivate to active status prior to engaging in any practice in Iowa that requires certification or associate registration. An application to reactivate to active status shall be on a form provided by the board, shall demonstrate full compliance with all applicable continuing education requirements, and shall be accompanied by a ~~change-of-status fee to reactivate an inactive license and the biennial fee for active status as provided in rule 193F—12.1(543D).~~ change-of-status fee to reactivate an inactive license and the biennial fee for active status as provided in rule 193F—12.1(543D). Prior to reactivation to active status, the applicant must complete all education that would have been required had the applicant been on active status, including the most recent seven-hour USPAP update course. All such continuing education must be verified whether or not the applicant has been in active practice in another jurisdiction. Additionally, the special continuing education requirements that apply to associate appraisers reinstating a lapsed registration, as provided in subrule 9.4(6), shall apply to associate appraisers reactivating to active status following a period of inactive status of 12 months or longer. Such an applicant shall be given credit for the most recent renewal fees previously paid if the applicant applies to reactivate in the same biennium at other than the applicant's regular renewal date. An applicant changing from active to inactive status during a biennial renewal period shall not, however, be entitled to a refund of any of the fees previously paid to attain active status.

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

ITEM 21. Amend subrule 10.2(1) as follows:

**10.2(1)** The board will recognize, on a temporary basis ~~and for a maximum of two assignments per year~~, the certification of an appraiser issued by another state.

ITEM 22. Amend subrule 11.2(1) as follows:

**11.2(1)** Certified residential, certified general and associate appraisers must demonstrate compliance with the following continuing education requirements as a condition of biennial renewal:

*a.* A minimum of 28 credit hours in approved continuing education programs must be acquired during the two-year renewal period. Carryover hours from a previous renewal period are not allowed.

*b.* The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases the appraiser's skill, knowledge and competency in real estate appraising. Credit may be granted for educational offerings that are consistent with the purpose of continuing education. A minimum of 21 of the required 28 credit hours must involve courses that address one or more of the subject areas listed in subrule 11.4(2).

*c.* Appraisers must successfully complete the seven-hour National USPAP Update Course, or its equivalent, each two-year renewal cycle. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP continuing education credit shall be awarded only when the class is instructed by an AQB-certified instructor(s) and when the class is instructed by at least one state-certified residential or state-certified general appraiser. Individuals who are credentialed in more than one jurisdiction shall not have to take more than one seven-hour National USPAP Update Course within a two-calendar-year period for the purposes of meeting AQB criteria.

*d.* With the exception of continuing education obtained during the 30-day grace period authorized by and subject to and in accordance with 193F—subrule 9.4(2), all continuing education claimed on a biennial renewal must have been acquired during the renewal period. In addition, all continuing education claimed on a biennial renewal must have been actually taken and completed prior to the renewal application being submitted to the board.

ITEM 23. Amend subrule 11.2(8) as follows:

**11.2(8)** An applicant may claim continuing education credits ~~earned in a state that have been approved by a state that has a continuing education requirement for renewal of a real estate appraisal certificate if and applied toward the applicant's continuing education requirement in that state, provided the applicable program is was approved by the appraisal certification board of that state or the Appraiser Qualifications Board AQB for continuing education purposes at the time the applicant completed the course. The burden of proof is on the applicant to demonstrate that a claimed course was approved by the state, applied toward the applicant's continuing education requirement in that state, and approved by the appraisal certification board of that state or the AQB for continuing education purposes at the time the applicant completed the course.~~ All other programs must be approved upon application to the board pursuant to rules 193F—11.4(272C,543D), 193F—11.5(272C,543D) and 193F—11.6(272C,543D).

ITEM 24. Amend subrule 11.4(2) as follows:

**11.4(2)** Continuing education programs dealing with the following subject areas that are integrally related to appraisal topics and that will generally be acceptable include, but are not limited to:

- a.* Ad valorem taxation;
- b.* Agriculture production and economics;
- c.* Agronomy/soil;
- d.* Approaches to value;
- e.* Arbitrations, dispute resolution;
- f.* Courses related to the practice of real estate appraisal or consulting;
- g.* Construction cost or development cost estimating;
- h.* Ethics and standards of professional practice, USPAP;
- i.* Land use planning or zoning;
- j.* Management, leasing, time sharing;
- k.* Property development, partial interests;

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

- l.* Real estate appraisal law and rules;
- m.* Real estate appraisal (valuations/evaluations);
- n.* Real estate law, easements, and legal interests;
- o.* Real estate litigation, damages, condemnation;
- p.* Real estate financing and investment;
- q.* Real estate appraisal-related computer applications;
- r.* Real estate securities and syndication;
- s.* Developing opinions of real property value in appraisals that also include personal property or business value, or both;
- t.* Seller concessions and impact on value; ~~and~~
- u.* Energy efficient items and “green building” appraisals; and
- v.* Real estate appraisal technology (e.g., drones).

ITEM 25. Amend subrule 11.4(3) as follows:

**11.4(3)** The following programs will not be acceptable:

- a.* Sales promotion ~~or other~~ meetings held in conjunction with the appraiser’s general business;
- b.* Time devoted to breakfast, lunch or dinner;
- c.* A program certified by the use of a challenge examination. The required number of hours must be completed to receive credit hours;
- ~~*d.* Meetings that are a normal part of the in-house staff or employee training;~~
- ~~*e.*~~ *d.* Programs that do not provide at least two credit hours.

ITEM 26. Amend rule 193F—12.1(543D) as follows:

**193F—12.1(543D) Required fees.** The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	<del>\$100</del> <u>\$150</u>
Examination fee (and reexamination fee)	\$145
Biennial registration fee for active status ( <u>initial, reciprocal, renewal</u> ):	
Certified <del>general</del> real property appraiser <u>&gt; one year</u>	<del>\$390</del> <u>\$200</u>
Certified <del>residential</del> real property appraiser	\$390
<u>Certified real property appraiser &lt; one year</u>	<u>\$100</u>
Associate real property appraiser <u>&gt; one year</u>	<del>\$250</del> <u>\$200</u>
Associate real property appraiser <u>&lt; one year</u>	<u>\$100</u>
Biennial registration fee for inactive status ( <u>initial, reciprocal, renewal</u> ):	
Certified <del>general</del> real property appraiser	<del>\$130</del> <u>\$100</u>
Certified <del>residential</del> real property appraiser	\$130
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	<del>\$150</del> <u>\$100</u>
<del>Reciprocal application fee (one-time only)</del>	<del>\$50</del>
<del>Reciprocal registration fee (biennial)</del>	<del>\$390</del>
Fee to reinstate a lapsed license ( <u>lapsed to active status</u> )	\$150 (plus the registration fee)
Fee to <del>reinstate</del> <u>reactivate</u> an inactive license <del>to active status</del> ( <u>inactive to active status</u> )	<u>\$50 (plus the registration fee)</u>
<del>Reissuance or replacement of a lost, destroyed, or stolen certificate or registration</del>	<del>\$50</del>

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

<u>Formal wall certificate</u>	<u>\$25</u>
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report
<u>Course application fee (non-AQB-approved courses and secondary providers)</u>	<u>\$50</u>
<u>Pre-/post-course application fee</u>	<u>\$25</u>
<u>Background check</u>	<u>\$51</u>
<u>ASC National Registry fee &gt; one year, separate from registration fee</u>	<u>\$80</u>
<u>ASC National Registry fee &lt; one year, separate from registration fee</u>	<u>\$40</u>
<u>Fee to add supervisory appraiser</u>	<u>\$25</u>
<u>Fee to add course instructor</u>	<u>\$10</u>
<u>Waiver to administrative rules</u>	<u>\$25</u>
<u>Late renewal fee (associate, certified)</u>	<u>\$50</u>

ITEM 27. Amend rule 193F—12.2(543D) as follows:

**193F—12.2(543D) Prorating of registration fees.** An applicant applying for initial or reciprocal registration or certification within 12 months from the applicant's required renewal date, pursuant to rule 193F—9.1(543D), shall pay half the required fee. An applicant applying for initial or reciprocal registration or certification more than 12 months from the applicant's required renewal date shall pay the full registration fee. An applicant applying to reinstate or reactivate a lapsed registration or certification within 12 months from the applicant's required renewal date, pursuant to rule 193F—9.1(543D), shall pay half the required renewal fee plus the applicable reactivation or reinstatement fee. An applicant applying to reinstate or reactivate a lapsed registration or certification more than 12 months from the applicant's required renewal date shall pay the full renewal fee plus the applicable reactivation or reinstatement fee.

ITEM 28. Amend rule 193F—15.2(543D) as follows:

**193F—15.2(543D) Supervisory appraiser responsibilities.** Supervisory appraisers shall:

1. to 10. No change.

11. Notify the board within ten calendar days after the supervisor ceases supervising an associate appraiser. The notice must include the name of the associate appraiser and the date the supervision ceased.

ITEM 29. Amend subrule 17.2(4) as follows:

**17.2(4) Review or appeal of contested case decision.**

a. ~~Notwithstanding anything in these rules to the contrary, all~~ All board decisions in a contested case following hearing are proposed decisions and shall be provided to the superintendent when issued. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action shall be delayed during the pendency of such review or appeal.

b. to l. No change.

**ARC 5122C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to highway program acknowledgment signs  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 25, “Competition with Private Enterprise,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 23A.2(1) and 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 23A.2(1).

*Purpose and Summary*

The proposed amendment revises Chapter 25 to update the Department activities that are exempted from the provisions of Iowa Code section 23A.2(1) and to remove “rest area sponsorship.” The Department no longer has a rest area sponsorship program.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 1, 2020. Comments should be directed to:

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

*Public Hearing*

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on September 1, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.



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

September 3, 2020  
10 to 11 a.m.

Department of Transportation  
800 Lincoln Way  
Ames, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs. The public hearing will be canceled without further notice if no oral presentation is requested.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 25.2(8) as follows:

**25.2(8)** Design, construction, reconstruction, inspection and maintenance of highways including, but not limited to, signs erected in the right-of-way and acknowledgment signs used in the adopt-a-highway; ~~rest area sponsorship~~ and highway helper sponsorship programs.

**ARC 5128C**

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

**Notice of Intended Action**

**Proposing rule making related to notification of availability of unemployment insurance and providing an opportunity for public comment**

The Director of the Workforce Development Department hereby proposes to amend Chapter 22, "Employer Records and Reports," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 96.11.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

*Purpose and Summary*

New rule 871—22.19(96) is proposed because the U.S. Department of Labor has added a requirement as a result of the pandemic, which is included in Unemployment Insurance Program Letter (UIPL) No. 13-20, that states must require employers to notify their employees of the availability of unemployment insurance (UI) upon separation.

*Fiscal Impact*

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

## WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

David Steen  
Department of Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Email: [david.steen@iwd.iowa.gov](mailto:david.steen@iwd.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 5127C**, IAB 8/12/20). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 5127C

**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Adopted and Filed Emergency****Rule making related to notification of availability of unemployment insurance**

The Director of the Workforce Development Department hereby amends Chapter 22, “Employer Records and Reports,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 96.11.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

*Purpose and Summary*

New rule 871—22.19(96) is proposed because the U.S. Department of Labor has added a requirement as a result of the pandemic, which is included in Unemployment Insurance Program Letter (UIPL) No. 13-20, that states must require employers to notify their employees of the availability of unemployment insurance (UI) upon separation.

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

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee. In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its July 14, 2020, meeting reviewed this rule making and approved the emergency adoption.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 23, 2020. Due to the recent pandemic, the U.S. Department of Labor has added a requirement, and included in interpretation of UIPL No. 13-20, that states must require employers to notify their employees of the availability of UI upon separation. This rule making will confer a benefit to the public because complying with the requirements of the U.S. Department of Labor, the State of Iowa will be permitted to receive federal funds. The Department has determined that an immediate effective date is useful to further the purposes of this rule making and comply with the federal requirement.

*Adoption of Rule Making*

This rule making was adopted by the Director of the Department on July 21, 2020.

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 5128C** to allow for public comment.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making became effective on July 23, 2020.

The following rule-making action is adopted:

Adopt the following **new** rule 871—22.19(96):

**871—22.19(96) Notification of availability of unemployment insurance.**

**22.19(1)** Upon separation from employment, an employer shall provide documentation to an employee of the availability of unemployment insurance.

**22.19(2)** The notice shall inform employees of the following:

- a. Unemployment insurance benefits are available to workers who are unemployed and who meet the state's eligibility requirements;
- b. Employees may file a claim in the first week that employment stops or work hours are reduced;
- c. Employees may file claims online at [iowaworkforcedevelopment.gov](http://iowaworkforcedevelopment.gov) or by telephone at (866)239-0843;
- d. Employees must provide the department with the following information to process the claim:
  - (1) Full legal name;
  - (2) Social security number;
  - (3) Authorization to work (if the employee is not a U.S. citizen or resident);
  - (4) Last employer name and address;
  - (5) Start and end dates of the employee's last employment;
  - (6) Additional information upon request of the department.

This rule is intended to implement Iowa Code chapter 96 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

[Filed Emergency 7/21/20, effective 7/23/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5137C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Adopted and Filed**

**Rule making related to loan repayment programs**

The College Student Aid Commission hereby amends Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” Chapter 25, “Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program,” and Chapter 26, “Health Care Loan Repayment Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

*Purpose and Summary*

The adopted amendments specify that distances between cities, corresponding to the definition of “service commitment area,” are measured and verified by calculating the shortest travel distance on paved roads instead of by straight-line distance.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 6, 2020, as **ARC 5031C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on July 17, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **283—24.2(261)**, definition of “Service commitment area,” as follows:

“*Service commitment area*” means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each physician participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the ~~straight-line distance between main post offices~~ shortest travel distance on paved roads.

ITEM 2. Amend rule **283—25.2(261)**, definition of “Service commitment area,” as follows:

“*Service commitment area*” means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each applicant participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable \$2,000 contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the ~~straight-line distance between main post offices~~ shortest travel distance on paved roads.

ITEM 3. Amend rule **283—26.2(261)**, definition of “Service commitment area,” as follows:

“*Service commitment area*” means a city in Iowa with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

[Filed 7/21/20, effective 9/16/20]

[Published 8/12/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5138C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to welcome center program**

The Economic Development Authority hereby rescinds Chapter 34, “Welcome Center Program,” Iowa Administrative Code and adopts a new Chapter 34 with the same title.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15.271 and 15.272.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Purpose and Summary*

2019 Iowa Acts, House File 303, made significant updates to the Authority's Welcome Center Program. This legislation removed outdated references to a statewide long-range plan and pilot program, which no longer exist. This amendment rescinds the existing rules relating to the pilot program and replaces the chapter with more general information about the purpose of welcome centers, which is to provide travel-related services and tourism information to travelers throughout the state.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4962C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Authority on July 17, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making action is adopted:

Rescind 261—Chapter 34 and adopt the following **new** chapter in lieu thereof:

CHAPTER 34  
WELCOME CENTER PROGRAM

**261—34.1(15) Purpose.** The primary goal of a statewide program for welcome centers is to provide travel-related services and tourism information to travelers. A program is established to maintain a variety of welcome centers at strategic locations to meet the needs of travelers in the state.

**261—34.2(15) Welcome center program.** The economic development authority shall establish and administer a statewide welcome center program.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**34.2(1) Collaboration with state agencies.** The authority shall collaborate with other state agencies as necessary to coordinate the operation of such welcome centers and to provide information to travelers.

**34.2(2) Operation.** The authority shall operate, manage, and maintain all state-owned and state-operated welcome centers, including the provision of travel-related services and the collection and distribution of tourism information.

These rules are intended to implement Iowa Code sections 15.271 and 15.272.

[Filed 7/24/20, effective 9/16/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5139C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to workforce housing tax incentives program**

The Economic Development Authority hereby amends Chapter 48, "Workforce Housing Tax Incentives Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.356.

*Purpose and Summary*

2019 Iowa Acts, House File 772, the Governor's Empower Rural Iowa Act, made changes to the Workforce Housing Tax Incentives Program, including increasing the maximum amount of tax credits the Authority allocates to the program from \$20 million to \$25 million; revising the definition of "small city"; amending or adding provisions to create a disaster recovery component of the program; amending or adding provisions to provide for competitive scoring; and clarifying and supplementing the contracting, notice, award and revocation processes. These amendments implement changes made by that legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4967C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Authority on July 17, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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



*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 48.4(1) as follows:

**48.4(1) Minimum requirements.** To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the following requirements:

*a.* to *d.* No change.

*e.* The project is not located in a 100-year floodplain.

ITEM 2. Amend rule 261—48.5(15) as follows:

**261—48.5(15) Housing project application and agreement.****48.5(1) Application.**

*a.* A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule. ~~The authority may accept applications on a continuous basis and will review applications in the order received. If the total amount of registered projects exceeds the available fiscal year allocation, the authority may stop accepting applications until the registered projects on the wait list have been awarded tax incentives. The authority will acknowledge receipt of the application and notify the applicant within 30 days as to whether the project will be registered pursuant to this rule.~~

*b.* The application required in paragraph 48.5(1) “*a*” shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least \$1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9) if required.

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

**48.5(2) Registration.** Application review—tax incentive award.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

a. All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to these rules. Review criteria include but are not limited to project need, project readiness, financial capacity, and project impact.

~~a. b.~~ Upon review and scoring of the application, the authority may register the housing project under the program. If the authority registers the housing project, the authority shall make a preliminary determination as to the amount of tax incentives for which the housing project qualifies all applications received during an application period, the authority may make a tax incentive award to a housing project. The tax incentive award shall represent the maximum amount of tax incentives the housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application from the housing business. Tax incentive awards shall be approved by the director of the authority.

~~b. c.~~ After ~~registering the housing project~~ making a tax incentive award, the authority shall notify the housing business of ~~successful registration under the program~~ its tax incentive award. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received ~~preliminary approval~~ an award and a statement that the amount is a preliminary determination ~~only~~ housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to paragraph 48.5(3) “a,” are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

d. An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application and shall be competitively reviewed and scored in the same manner as other applicants in that application period.

**48.5(3) Agreement and fees.**

~~a.~~ Upon ~~successful registration of the~~ receiving a tax incentive award for a housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program. The agreement shall identify the tax incentive amount, the tax incentive award date, the project completion deadline and the total costs of the housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. Housing project completion deadline.

(1) Except as provided in subparagraph 48.5(3) “c”(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project’s completion deadline once by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3) “c”(1) in the manner and form prescribed by the authority.

d. Upon completion of a housing project, an examination of the project in accordance with the American Institute of Certified Public Accountants’ statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. Upon review of the examination and verification of the amount of the qualifying new investment, the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

f. If, upon review of the examination in paragraph 48.5(3)“d,” the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall do one of the following:

(1) If the project costs do not cause the housing project’s average dwelling unit cost to exceed the applicable maximum amount authorized in subrule 48.4(1), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(2) If the project costs cause the housing project’s average dwelling cost to exceed the applicable maximum amount authorized in paragraph 48.4(1)“c” but do not cause the average dwelling unit cost to exceed 110 percent of such applicable amount, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible project may claim under rule 261—48.6(15) by the same percentage that the housing project’s average dwelling cost exceeds the applicable maximum amount under paragraph 48.4(1)“c,” and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subrule, the department of revenue shall accept the certificate notwithstanding that the housing project’s average dwelling unit cost exceeds the maximum amount specified in paragraph 48.4(1)“c.”

(3) If the project costs cause the housing project’s average dwelling unit cost to exceed 110 percent of the applicable maximum amount authorized in paragraph 48.4(1)“c,” the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under rule 261—48.6(15).

**48.5(4)** and **48.5(5)** No change.

ITEM 3. Amend rule 261—48.6(15) as follows:

**261—48.6(15) Workforce housing tax incentives.**

**48.6(1) Eligibility.** A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

**48.6(2) Sales tax refunds.** A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project and specified in the agreement. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

**48.6(3) Income tax credits.**

a. A housing business may claim a tax credit in an amount not to exceed the following:

(1) For a housing project not located in a small city, 10 percent of the qualifying new investment of a housing project specified in the agreement.

(2) For a housing project located in a small city, 20 percent of the qualifying new investment of a housing project specified in the agreement.

b. to f. No change.

ITEM 4. Amend rule 261—48.7(15) as follows:

**261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.**

**48.7(1)** Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119. ~~For each fiscal year beginning on or after July 1, 2014, the authority will allocate not more than \$20 million for purposes of the program.~~

**48.7(2)** If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

**48.7(3)** ~~If, in any fiscal year, the authority determines that demand for the tax incentives is more than the amount allocated to the program pursuant to Iowa Code section 15.119, the authority will keep a waiting list of projects registered pursuant to rule 261—48.5(15) and will only enter into new agreements under the program as additional program funding becomes available. The authority will~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~enter into agreements with registered projects on a first come, first served basis as determined by the order in which the projects were registered. A project successfully registered under the program will be considered to have priority as against other subsequently registered projects. However, registration under the program shall not obligate or otherwise bind the authority, or any other agency of the state, to execute a contract or issue tax incentives to an applicant under the program.~~

[Filed 7/24/20, effective 9/16/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5140C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to renewable chemical production tax credit**

The Economic Development Authority hereby amends Chapter 81, "Renewable Chemical Production Tax Credit Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.316.

*Purpose and Summary*

Under the renewable chemical production tax credit, Iowa Code section 15.316 provides that the term "building block chemical" includes a prescribed list of chemicals "or such additional molecules as may be included by the authority by rule after consultation with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals." In accordance with Iowa Code section 15.316 and the procedures set forth in rule 261—81.8(15), the Authority is adding the chemicals "ethylyne glycol" and "1,4 butanediol" to the list of approved building block chemicals. Brent Shanks at the Iowa State University Center for Biorenewable Chemicals (CBiRC) has recommended approval of these chemicals, and the Authority concurs.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4966C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Authority on July 17, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making action is adopted:

Amend rule **261—81.2(15)**, definition of “Building block chemical,” as follows:

“*Building block chemical*” means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product. “Building block chemical” includes but is not limited to high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, ~~erythronic~~ erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural, levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel ethanol, benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, ~~and~~ heptanoic acid, ethylyne glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

[Filed 7/24/20, effective 9/16/20]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5141C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to removal of third-party administrator**

The Human Services Department hereby amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 514I.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 514I.

HUMAN SERVICES DEPARTMENT[441](cont'd)

### *Purpose and Summary*

These amendments implement 2019 Iowa Acts, House File 625, which removed the third-party administrator for HAWK-I from Iowa Code chapter 514I. References to the third-party administrator are deleted from Chapter 86. The rule making also amends references that are not listed correctly in the rules.

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

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4912C**. No comments were received. No changes from the Notice have been made.

### *Adoption of Rule Making*

This rule making was adopted by the HAWK-I Board on July 20, 2020.

### *Fiscal Impact*

This rule making is expected to be budget-neutral. There will be savings associated with the HAWK-I third-party administrator contract that will shift to the Department to cover the cost of determining HAWK-I eligibility, payment of claims and administration of the program.

### *Jobs Impact*

This may result in some loss of some jobs for the individuals working for the third-party administrator.

### *Waivers*

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

### *Review by Administrative Rules Review Committee*

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

### *Effective Date*

This rule making will become effective on December 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 86**, preamble, as follows:

#### PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program and establish requirements ~~for the third-party administrator responsible~~ for the program administration and for the participating health and dental plans that will be delivering services to the enrollees. The purpose of this program is to provide transitional health and dental care coverage to children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. This chapter shall be construed to comply with all requirements for federal funding under Title XXI of the Social Security Act or under the terms of any applicable waiver of Title XXI requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter

## HUMAN SERVICES DEPARTMENT[441](cont'd)

is inconsistent with any applicable federal funding requirement under Title XXI or the terms of any applicable waiver, the requirements of Title XXI or the terms of the waiver shall prevail.

ITEM 2. Amend rule **441—86.1(514I)**, definitions of “Contract,” “Good cause,” “Health insurance coverage,” “Health Insurance Marketplace,” “Institution for mental diseases,” “Modified adjusted gross income,” “Nonmedical public institution” and “Third-party administrator,” as follows:

~~“Contract” shall mean the contract between the department and the person or entity selected as the third-party administrator or the contract between the department and the participating health or dental plan for the provision of medical or dental services to HAWK-I enrollees for whom the participating health or dental plans assume risk.~~

~~“Good cause” shall mean the family has demonstrated that one or more of the following conditions exist:~~

~~1. to 3. No change.~~

~~4. There was a failure to receive the third-party administrator’s department’s request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.~~

~~“Health insurance coverage” shall mean health insurance coverage as defined in 45 CFR Section 144.103, as amended to October 1, 2008.~~

~~“Health Insurance Marketplace” or “Exchange” shall mean the entity authorized under 42 U.S.C. Section 18031(d)(4)(F) as amended to April 1, 2013, to evaluate and determine eligibility of applicants for Medicaid, the Children’s Health Insurance Program (CHIP), and other health programs.~~

~~“Institution for mental diseases” shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1009 as amended November 10, 1994 435.1010.~~

~~“Modified adjusted gross income” shall mean the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603 as amended to April 1, 2013.~~

~~“Nonmedical public Public institution” shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1009 as amended November 10, 1994 435.1010.~~

~~“Third-party administrator” shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.~~

ITEM 3. Amend subrule 86.2(9) as follows:

**86.2(9)** ~~Inmates of nonmedical public institutions.~~ The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section ~~435.1009 as amended November 10, 1994~~ 435.1010.

ITEM 4. Amend subrule 86.2(10) as follows:

**86.2(10)** ~~Inmates of institutions for mental disease.~~ At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section ~~435.1009 as amended November 10, 1994~~ 435.1010.

ITEM 5. Amend subrule 86.3(3) as follows:

**86.3(3)** ~~Place of filing.~~ An application for the HAWK-I program may be filed with the ~~third-party administrator responsible for making the eligibility determination~~ department through an Internet ~~Web site~~ website, by telephone, through other electronic means, or ~~in any local or area office of the department of human services,~~ through an exchange, disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided.

ITEM 6. Amend paragraph **86.3(7)“b”** as follows:

~~b.~~ Failure to supply the information or verification or refusal to authorize the ~~third-party administrator~~ department to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been

## HUMAN SERVICES DEPARTMENT[441](cont'd)

provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

ITEM 7. Amend subrule 86.3(9) as follows:

**86.3(9) Applicant cooperation.** An applicant must cooperate with the ~~third-party administrator~~ department in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

ITEM 8. Amend paragraph **86.3(10)“a”** as follows:

a. The department or ~~the third-party administrator~~ shall mail a notice of decision to the applicant that states:

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The applicant does not meet eligibility requirements, in which case the applicant shall not be put on a waiting list.

ITEM 9. Amend subrule 86.7(6) as follows:

**86.7(6) Enrolled in other health insurance coverage.** The child shall be canceled from the program as of the first day of the month following the month in which the department or ~~the third-party administrator~~ is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the HAWK-I program, the other insurance plan shall be the primary payor and HAWK-I shall be the payor of last resort.

ITEM 10. Amend subrule 86.7(7) as follows:

**86.7(7) Admission to a nonmedical public institution.** The child shall be canceled from the program ~~as of the first day of the month following the month in which the child enters a nonmedical public institution unless the temporary absence provisions of paragraph 86.2(3)“d” apply if the child is in a public institution at the time of the annual review.~~

ITEM 11. Amend rule 441—86.10(514I), introductory paragraph, as follows:

**441—86.10(514I) Reporting changes.** Changes that may affect eligibility shall be reported timely to the department or ~~the third-party administrator~~. “Timely” shall mean no later than ten working days after the change occurred. The ten working-day period begins the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change unless the child is emancipated, married, or otherwise in an independent living situation, in which case the child shall be responsible for reporting the change.

ITEM 12. Rescind subrule **86.10(1)**.

ITEM 13. Renumber subrules **86.10(2)** to **86.10(8)** as **86.10(1)** to **86.10(7)**.

ITEM 14. Amend renumbered subrule 86.10(4) as follows:

**86.10(4) Decrease in income.** If the family reports a decrease in income, the ~~third-party administrator~~ department shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

ITEM 15. Rescind and reserve rule **441—86.13(514I)**.

ITEM 16. Amend paragraph **86.14(1)“o”** as follows:

o. Translation and interpreter services as specified pursuant to ~~the federal Children’s Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3~~ 42 U.S.C. Section 1397ee(a)(1).

ITEM 17. Amend subrule 86.15(3) as follows:

**86.15(3) Premium tax.** Premiums paid to participating health and dental plans by the ~~third-party administrator~~ department are exempt from premium tax.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 18. Amend subparagraph **86.15(6)“c”(2)** as follows:

(2) All health and dental plan literature and brochures shall be available in English and any other language when enrollment in the health or dental plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the health or dental plan ~~and shall be made available to the third-party administrator for distribution.~~

ITEM 19. Amend subrule 86.15(9) as follows:

**86.15(9) Records and reports.** The participating health and dental plans shall maintain records and reports as follows:

a. The health or dental plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the health or dental plan or subcontractor of the health or dental plan, as appropriate, must maintain a medical or dental records system that:

- (1) Identifies each medical or dental record by HAWK-I enrollee identification number.
- (2) Maintains a complete medical or dental record for each enrollee.
- (3) Provides a specific medical or dental record on demand.
- (4) Meets state and federal reporting requirements applicable to the HAWK-I program.
- (5) Maintains the confidentiality of medical or dental records information and releases the information only in accordance with established policy below:

1. All medical and dental records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, other practitioners, or facilities that are providing services to enrollees under a subcontract with the health or dental plan. This provision also applies to specialty providers who are retained by the health or dental plan to provide services which are infrequently used, which provide a support system service to the operation of the health or dental plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff ~~and the third-party administrator~~ assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the health or dental plan itself, and other subcontractors which require information as described under numbered paragraph “5” below.

3. to 6. No change.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each health or dental plan shall provide at a minimum reports and plan information to the ~~third-party administrator~~ department as follows:

- (1) A list of providers of services under the plan.
- (2) Encounter data on a monthly basis as required by the department.
- (3) Other information as directed by the department.

c. No change.

ITEM 20. Amend subrule 86.15(10) as follows:

**86.15(10) Systems System.** The participating health or dental plan shall maintain data files that are compatible with the department’s ~~and third-party administrator’s systems~~ system.

ITEM 21. Amend subrule **86.19(1)**, definition of “Administrative error,” as follows:

“*Administrative error*” means an action of the department ~~or the HAWK-I third-party administrator~~ that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

5. Failure to determine eligibility correctly when all essential information was available to the department ~~or the HAWK-I third-party administrator.~~
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

ITEM 22. Amend subrule 86.20(2) as follows:

**86.20(2) Eligibility.** Unless otherwise specified, eligibility for supplemental dental-only coverage shall be determined in accordance with the provisions of rules ~~441—86.1(514I)~~ 441—86.2(514I) through ~~441—86.12(514I), 441—86.18(514I), and 441—86.19(514I).~~

ITEM 23. Amend paragraph **86.20(3)“a”** as follows:

*a.* No premium is charged to families ~~who meet the provisions of subparagraph 86.8(2)“a”(1) or to families~~ whose countable income is less than or equal to 167 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology or to an eligible child who is an American Indian or Alaska Native.

[Filed 7/20/20, effective 12/1/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5142C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to personal degradation**

The Human Services Department hereby amends Chapter 176, “Dependent Adult Abuse,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 217.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 235B.

*Purpose and Summary*

Two pieces of legislation recently passed which resulted in these rule changes. 2019 Iowa Acts, House File 569, added personal degradation as a category of dependent adult abuse. 2019 Iowa Acts, House File 323, changed the definition of exploitation within the definition of dependent adult abuse. The proposed amendments update the definition of exploitation, define personal degradation within the definition of adult abuse, and set criteria for outcome determinations for dependent adult abuse evaluations conducted by the Department to include references to personal degradation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4911C**. No public comments were received. No changes from the Notice have been made.

HUMAN SERVICES DEPARTMENT[441](cont'd)

### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on July 8, 2020.

### *Fiscal Impact*

Both legislative changes will result in Department computer system updates, and the new category of abuse will increase case counts and result in the need for additional Department staff.

### *Jobs Impact*

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

### *Waivers*

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

### *Review by Administrative Rules Review Committee*

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

### *Effective Date*

This rule making will become effective on October 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—176.1(235B)**, definition of “Adult abuse,” as follows:

“*Adult abuse*” means either:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
  - Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
  - The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
  - Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources ~~for one's own personal or pecuniary profit~~, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
  - The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health.
  - Sexual exploitation of a dependent adult by a caretaker. “Sexual exploitation” means any consensual or nonconsensual sexual contact with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in Iowa Code section 702.17. “Sexual exploitation” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. “Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Personal degradation of a dependent adult, which 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.

2. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

ITEM 2. Amend subrule 176.3(1) as follows:

**176.3(1)** Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

- a. The person is a dependent adult.
- b. Dependent adult abuse exists as defined in Iowa Code section 235B.2.
- c. A caretaker exists in reports of physical injury to or unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; personal degradation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

ITEM 3. Amend subrule 176.3(4) as follows:

**176.3(4)** Confirmed, not registered. Reports of physical abuse, ~~or~~ denial of critical care by a caretaker, or personal degradation that would otherwise be founded reports shall be considered confirmed, not registered reports if the abuse is determined to be minor, isolated, and unlikely to reoccur. These reports shall be assessments and shall not be included on the central abuse registry. The assessment shall be maintained in the local office as directed in subrule 176.13(4).

[Filed 7/21/20, effective 10/1/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5143C**

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

**Adopted and Filed**

### **Rule making related to emergency medical services**

The Public Health Department hereby rescinds Chapter 131, "Emergency Medical Services—Provider Education/Training/Certification," and adopts a new Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations," and new Chapter 139, "Emergency Medical Services—Training Programs—Students—Complaints and Investigations," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in 147A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 147A and 147D and 2019 Iowa Acts, Senate File 304.

#### *Purpose and Summary*

Current Chapter 131 provides direction and rules regarding the training, certification, renewal and compliance of emergency medical care providers as well as the regulation of Emergency Medical Services (EMS) training programs. Following an extensive review of the rules with stakeholders, it

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

was suggested that the content of Chapter 131 be divided into two separate chapters: Chapter 131, which would only address the initial certification, renewal, reactivation and compliance of Emergency Medical Care providers, and Chapter 139, which would only address the standards and requirements for the authorization of EMS training programs. This rule making adopts those two new chapters. The new chapters also implement 2019 Iowa Acts, House File 694, which created Iowa Code chapter 147D, the Emergency Medical Services Personnel Licensure Interstate Compact, and 2019 Iowa Acts, Senate File 304, which sets limitations on the conditions under which a certification can be suspended or revoked.

New Chapter 131 includes the following updates:

- General rule revisions to the outdated sections that previously updated the current levels of certification following the completion of the transitions from multiple EMS levels to the four levels that are the national standard.
- Clarification of emergency medical care provider certification status to reflect an active or inactive certification, rather than the multiple identifications of active, deceased, denied, dropped, expired, failed, hold, idle, inactive, incomplete, pending, probation, restricted, retired, revoked, surrendered, suspended, or temporary.
- A description of prohibited grounds for discipline as prescribed in 2019 Iowa Acts, Senate File 304.
- Provisions regarding permission to practice and provisions to implement background checks for emergency medical care providers under Iowa Code chapter 147D.
- Updates that clearly state the authority of the emergency medical care provider.
- Adoption by reference of the Iowa Emergency Medical Care Provider Scope of Practice (September 2019). This document has been updated according to the national standards and thoroughly reviewed and edited by stakeholders.
- A significant decrease in the total number of continuing education hours for certification renewal and revisions to clarify that all hours are formal hours and must be documented by topic.
- General revisions and updates to the complaints, investigation and disciplinary sanctions for EMS providers.

New Chapter 139 contains the training portions of current Chapter 131. General revisions to outdated rules have been incorporated in and redundant provisions have been removed from the new chapter.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4857C**.

The Department received eight comments expressing general support for the update of EMS administrative rules and one comment on service full status. Specific to Chapter 131, the Department received three comments expressing general support, one minor editing comment, three comments on continuing education, five comments on provider education and six comments on scope of practice. The comments were focused on minor clarifications within the named topic areas and no specific wording changes were offered. Since publication of the Notice, minor changes for consistency have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on July 8, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making actions are adopted:

ITEM 1. Rescind 641—Chapter 131 and adopt the following **new** chapter in lieu thereof:

CHAPTER 131

EMERGENCY MEDICAL SERVICES—PROVIDERS—INITIAL CERTIFICATION—RENEWAL  
AND REACTIVATION—AUTHORITY—COMPLAINTS AND INVESTIGATIONS

**641—131.1(147A) Purpose.** This chapter establishes the regulations and requirements for emergency medical provider initial certification for individuals who have been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic or other certification level recognized by the department before 2011; describes the authority, permission to practice and scope of practice for certified emergency medical care providers in the state of Iowa; and establishes the regulations and requirements for renewal, extension and reactivation of an emergency medical care provider certification in the state of Iowa.

**641—131.2(147A,147D) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Advanced emergency medical technician”* or *“AEMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

*“Bureau”* or *“BETS”* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

*“CAPCE”* means the Commission on Accreditation for Prehospital Continuing Education. CAPCE is an accrediting body charged with the review and accreditation of EMS continuing education.

*“CEH”* means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

*“Certification”* or *“certificate”* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

*“Certification period”* means the length of time an emergency medical care provider certificate is valid. The certification period shall be for two years from initial issuance or from renewal, unless otherwise specified on the certificate or unless sooner suspended or revoked.

*“Certification status”* means the status of an individual EMS certificate holder.

1. *“Active”* means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.5(1).

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. “Probation,” which is an active certification, means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.5(1) and under the conditions of probation.

3. “Denied” means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

4. “Inactive” means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

5. “Revoked” means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

6. “Surrendered” means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

7. “Suspended” means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

“*Certified*” means being officially recognized as meeting department-approved testing and training standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A to practice as an emergency medical care provider in the state of Iowa.

“*Cognitive examination*” or “*written examination*” means the portion of the NREMT certification examination process evaluating the candidate’s level of EMS knowledge.

“*Compact*” means the emergency medical services personnel licensure interstate compact according to Iowa Code chapter 147D. The compact facilitates the day-to-day movement of emergency medical services personnel across state boundaries in the performance of emergency medical services duties and authorizes the department to afford immediate permission to practice to emergency medical services personnel licensed in a member state.

“*Core continuing education*” means education obtained during a certification period to renew certification. Core continuing education shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

“*Critical care paramedic*” or “*CCP*” means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Emergency medical care*” means any medical procedure authorized by Iowa Code chapter 147A and these rules.

“*Emergency medical care provider*” means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

“*Emergency medical care student*” means an individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

“*Emergency medical responder*” or “*EMR*” means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Responder Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

“*Emergency medical services*” or “*EMS*” means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

“*Emergency medical technician*” or “*EMT*” means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

“*Emergency medical technician-defibrillation*” or “*EMT-D*” means an individual who has successfully completed an approved program and is currently certified by the department as an EMT-D.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*EMS clinical guidelines*” or “*minimum EMS clinical guidelines*” means a minimum clinical standard approved by the department upon which a service program’s medical director shall base service program protocols.

“*EMS instructor*” or “*EMS-I*” means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

“*Endorsement*” or “*endorsed*” means an approval granted by the department authorizing an individual to serve as an EMS-I or CCP.

“*Fees*” means those fees received pursuant to Iowa Code chapters 147A and 147D.

“*First responder*” or “*FR*” means an individual who has successfully completed an approved program and is currently certified by the department as an FR.

“*First responder-defibrillation*” or “*FR-G*” means an individual who has successfully completed an approved program and is currently certified by the department as a FR-G.

“*NREMT*” means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent practice by EMS professionals.

“*Paramedic*” or “*PM*” means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Paramedic Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the paramedic, and is currently certified by the department as a paramedic.

“*Patient*” means an individual who is sick, injured, or otherwise incapacitated and has been evaluated or provided treatment by an emergency medical care provider.

“*Patient abandonment*” means a termination of the provider/patient relationship at a time when a continuous level of care is needed. Patient abandonment does not occur when a scene is unsecured, deteriorates or becomes too dangerous for the emergency medical care provider to safely function. Patient abandonment does not occur when patient care is transferred to another emergency medical care provider following assessment or triage.

“*Physician*” means an individual licensed under Iowa Code chapter 148.

“*Physician assistant*” or “*PA*” means an individual licensed pursuant to Iowa Code chapter 148C.

“*Protocols*” means written directions and orders approved by a service program’s medical director utilizing the EMS clinical guidelines.

“*Psychomotor examination*” or “*practical examination*” means the portion of the department-approved or NREMT certification examination process that evaluates the skill and procedure capabilities of the candidate.

“*Registered nurse*” or “*RN*” means an individual licensed pursuant to Iowa Code chapter 152.

“*Service program*” or “*service*” means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

#### **641—131.3(147A) Initial certification.**

**131.3(1)** An individual who has successfully completed the training program requirements at the EMR, EMT, AEMT or paramedic level and has a valid certification with NREMT shall submit the following to the department for initial Iowa emergency medical care provider certification:

- a. A completed EMS certification application.
- b. An NREMT active certification number.
- c. Payment of the initial application fee.
- d. Two completed fingerprint cards for background checks.
- e. Payment of the background check fee.

**131.3(2)** Once the above items are received and approved, the department may issue an initial emergency medical care provider certification.

**131.3(3)** Initial Iowa certification dates shall be consistent with the NREMT certification dates.



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**131.3(4)** The individual seeking an Iowa emergency medical provider care certification shall submit all application materials within two years from the Iowa training program course completion date.

**131.3(5)** If the individual is unable to complete the requirements within two years due to medical reasons or military obligation, an extension may be granted upon submission of a signed statement from an appropriate medical or military authority and approval by the department.

**641—131.4(147A) Background check results.**

**131.4(1)** Negative information on the criminal history will not necessarily preclude an individual from certification. The department will directly communicate with the individual to carefully consider the results of the background check. The following will be taken into consideration during the evaluation and analysis:

- a. The nature and gravity of the conviction.
- b. The length of time between the conviction and the application for certification.
- c. Frequency and severity of the criminal activity and child or dependent adult abuse activity included in the background check results.
- d. Mitigating factors at the time the activity occurred.
- e. Cooperation with federal or state officials in the investigation and treatment/rehabilitation plan.
- f. The maturity of the individual at the time of any criminal activity or child or dependent adult abuse activity.

**131.4(2)** The department will take reasonable steps to ensure the accuracy of the information contained in the background checks. An individual who believes the background checks contain inaccurate information will be informed of the steps the individual may wish to pursue to correct the information.

**131.4(3)** All criminal history records are confidential and will only be used in accordance with this policy to determine eligibility. All background check records will be stored in a secure location. Background check records shall not be disseminated by the department.

**641—131.5(147A) Authority.**

**131.5(1)** *Authority of emergency medical care provider.* An emergency medical care provider who holds an active Iowa certification issued by the department or has permission to practice in Iowa pursuant to Iowa Code chapter 147D may:

a. As a member of a responding authorized service program, render emergency medical care and perform emergency medical care without contacting medical direction if written protocols have been approved by the service program medical director.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when:

(1) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(2) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**131.5(2) Scope of practice.**

- a. Emergency medical care providers shall perform only those skills and procedures that are authorized within the scope of practice for which certified.
- b. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the scope of practice adopted by reference and these rules, the rules shall prevail.
- c. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)).
- d. The department may grant a variance for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 641—Chapter 178.

**641—131.6(147A) Renewal standards, reactivation procedures, fees, and continuing education.****131.6(1) Renewal of certification.**

- a. An emergency medical care provider shall submit an application for renewal of an active Iowa EMS certification within 90 days prior to the certification expiration date.
- b. The renewal application and process are completed online via an individual Iowa EMS provider account. The electronic portal to access individual accounts is located at: [dphregprograms.iowa.gov/PublicPortal/Iowa/IDPH/common/index.jsp](http://dphregprograms.iowa.gov/PublicPortal/Iowa/IDPH/common/index.jsp).
- c. Renewal notifications will be sent to Iowa emergency medical care providers who have an active certification set to expire in 90 days. The notification will be sent by email to the address on file in the emergency medical care provider's electronic profile.
- d. It is the emergency medical care provider's responsibility to ensure the electronic profile information, including the email address, is updated and correct within 30 days of any change.
- e. A renewal certificate shall be valid for two years from the current expiration date unless sooner surrendered, suspended or revoked.
- f. A lower-level certificate may be renewed if the individual voluntarily chooses to move from a higher level to a lower level by completing all applicable continuing education requirements for the lower level during the certification period and submitting a change of status request, available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)).
- g. A certification status shall become inactive if the certificate has not been renewed by the certification expiration date unless the emergency medical care provider is granted an extension as described in subrule 131.6(3).
- h. An emergency medical care provider may request an inactive status. The request must be made by submitting a change of status request, available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)). A request for inactive status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

**131.6(2) Late renewal of certification.**

- a. An emergency medical care provider who has completed the required continuing education during the certification period but fails to submit the EMS renewal of certification application and applicable fees prior to the certification expiration date is eligible for late renewal of the inactive certification.
- b. The emergency medical care provider shall complete the EMS renewal of certification application, submit a late fee in addition to the applicable renewal fee and submit an audit report form provided by the department. The fee and audit report form shall be submitted before the last day of the month following the certification expiration date. If the late renewal submission is not completed by the last day of the month following the certification expiration date, the certification remains inactive.
- c. An emergency medical care provider who has not completed the required continuing education during the certification period is not eligible for late renewal. The certification is inactive.

**131.6(3) Extension of certification.**

- a. An emergency medical care provider who is unable to attain all continuing education requirements within the certification period may request a 45-day extension. To complete the extension process, the provider shall:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

(1) Submit a request for extension application, available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)), at least 7 days prior to the certification expiration date, but no more than 90 days prior to the certification expiration date, and payment of the extension fee.

(2) Complete the continuing education requirements.

(3) Complete and submit the EMS affirmative renewal of certification application, with all applicable renewal fees, to the department prior to the extended expiration date.

(4) Submit an audit report form provided by the department.

b. If an emergency medical care provider fails to submit any of the items required in subparagraphs 131.6(3)“a”(2) and (3) by the forty-fifth day of the extended certification period, the certification will be inactive.

c. The emergency medical care provider may not use continuing education completed during the extension period in the subsequent renewal period.

**131.6(4) *Reactivation of an inactive certification.***

a. *Certification inactive up to 24 months.* An emergency medical care provider may apply to reactivate an inactive certification up to 24 months after the certification became inactive.

(1) An individual will submit to the department an EMS certification reactivation application, which is available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)).

(2) If the department approves the application, the individual must submit an audit report form with 36 core continuing education hours prorated per lapsed year by core topic area and the reactivation fee.

(3) Upon receipt and approval of the items required in subparagraphs 131.6(4)“a”(1) and (2), the department may issue a new certification.

(4) An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

b. *Certification inactive from 25 months to 48 months.* An emergency medical care provider may apply to reactivate an inactive certification that has been inactive for 25 months but no more than 48 months.

(1) An individual will submit to the department an EMS certification reactivation application, which is available on the BETS website ([idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS)).

(2) If the department approves the application, the individual must submit documentation of successful completion of an approved EMS refresher course that includes successful completion of psychomotor and cognitive certification examinations. In addition, the individual must:

1. Submit two fingerprint cards.

2. Submit reactivation and background check fees.

3. Upon receipt and approval of the items required in subparagraphs 131.6(4)“b”(1) and (2), the department may issue a new certification.

4. An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

c. *Certification inactive for more than 48 months.* An emergency medical care provider may not apply to reactivate a certification that has been inactive for more than 48 months.

**131.6(5) *Reactivation of revoked or suspended certification.***

a. Any person whose certification to practice has been revoked or suspended may apply to the department for reactivation in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reactivation might occur or if the certification was voluntarily surrendered, an initial application for reactivation may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

c. All proceedings for reactivation shall be initiated by the person whose certification has been revoked or suspended in accordance with subrule 131.6(4). An application for reactivation shall allege facts which, if established, will be sufficient to enable the department to determine that the basis for the revocation or suspension of the person’s certification no longer exists and that it will be in the public

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

interest for the certification to be reinstated. The burden of proof to establish such facts shall be on the person whose certification has been suspended or revoked.

*d.* An order denying or granting reactivation shall be based upon a decision which incorporates findings of facts and conclusions of law.

**131.6(6) Fees.** The nonrefundable fees are as follows:

- a.* Application for initial Iowa certification at all certification levels: \$30.
- b.* Reactivation of a certification to practice: \$30.
- c.* Renewal of a certification to practice as a first responder, EMR: no fee.
- d.* Renewal of a certification to practice as an emergency medical technician: no fee.
- e.* Renewal of a certification to practice as an advance emergency medical technician: \$10.
- f.* Renewal of a certification to practice as a paramedic: \$25.
- g.* Late renewal of a certification to practice: \$30.
- h.* Returned payment due to insufficient funds: \$15.
- i.* Extension of certification: \$50.
- j.* Criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) and fingerprint card evaluation: \$50.

**131.6(7) Continuing education renewal.**

*a.* The table below illustrates the minimum number of core CEHs by topic area for each level of emergency medical care provider to renew an Iowa EMS certification.

Core Topics	EMR/FR	EMT/EMT-D	AEMT	PM
Airway, Respirations, Ventilations	1	1	2	3
Cardiology	2	6	7	9
Trauma	1	2	3	3
Medical	3	6	8	9
Operations	1	5	5	6
<b>Totals</b>	<b>8</b>	<b>20</b>	<b>25</b>	<b>30</b>

*b.* All core continuing education hours used to renew an Iowa EMS certification must have a sponsor number by an authorized Iowa training program, the department, the board of nursing, the board of medicine, or CAPCE before the emergency medical care provider attends the offering.

*c.* An emergency medical care provider who is registered with the NREMT may renew the provider's Iowa EMS certification by meeting the NREMT's requirements. The emergency medical care provider must submit the Iowa affirmative renewal of certification application and all appropriate fees.

*d.* An emergency medical care provider shall be deemed to have complied with the continuing education requirements during periods in which the provider serves honorably on active duty in the military services or for periods in which the provider is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The emergency medical care provider must submit the Iowa affirmative renewal of certification application, all appropriate fees and documentation of assignment.

*e.* The emergency medical care provider shall maintain a file containing documentation of CEHs accrued during each certification period for four years from the end of each certification period.

*f.* A group of emergency medical care providers will be audited for each certification period. Emergency medical care providers to be audited will be chosen in a random manner or at the discretion of BETS. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action. Those audited will be required to submit a department-provided audit report form within 45 days of the request. If audited, the emergency medical care provider must provide the following information:

- (1) Date of program.
- (2) Program sponsor number.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (3) Title of program.
- (4) Number of approved hours.

**131.6(8) Continuing education approval.** The following standards shall be applied for approval of continuing education:

*a.* CEHs shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

*b.* Human health-related college courses may be approved in advance by BETS at one quarter credit equal to 10 CEHs, one semester credit equal to 15 CEHs.

**131.6(9) Out-of-state continuing education.** Out-of-state continuing education courses shall be accepted for CEHs if all criteria in subrule 131.6(7) are met and if the courses have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department.

**641—131.7(147A,272C) Discipline—denial, citation and warning, probation, suspension, or revocation of certificates or renewal.**

**131.7(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**131.7(2)** Prohibited grounds for discipline. The department shall not suspend or revoke the certification of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

**131.7(3)** Methods of discipline.

*a.* The department has the authority to impose the following disciplinary sanctions against an emergency medical care provider:

- (1) Issue a citation and warning.
- (2) Impose a civil penalty not to exceed \$1,000.
- (3) Require reexamination.
- (4) Require additional education or training.
- (5) Impose a period of probation under specific conditions.
- (6) Prohibit permanently, until further order of the department, or for a specific period, a provider's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.
- (7) Suspend a certificate until further order of the department or for a specific period.
- (8) Deny an application for certification.
- (9) Revoke a certification.
- (10) Impose such other sanctions as allowed by law and as may be appropriate.

*b.* A request for inactive status in connection with a disciplinary investigation or proceeding has the same effect as an order of revocation.

*c.* A citation and warning, denial, probation, restriction, suspension revocation, or civil penalty imposed upon an individual certificate holder by the department shall be considered applicable to all certificates and endorsements issued to that individual by the department.

*d.* An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

**131.7(4)** The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.7(3) when it finds that the individual or certificate holder has committed any of the following acts or offenses:

- a.* Negligence in performing emergency medical care.
- b.* Failure to follow the directions of supervising physicians or their designees.
- c.* Rendering treatment not authorized under Iowa Code chapter 147A.

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- d.* Patient abandonment.
- e.* Fraud in procuring certification or renewal including, but not limited to:
  - (1) An intentional perversion of the truth in making application for a certification to practice in this state;
  - (2) False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a certification in this state; or
  - (3) Attempting to file or filing with the department or training program any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a certification in this state.
- f.* Professional incompetency. Professional incompetency includes, but is not limited to:
  - (1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
  - (2) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other emergency medical care providers in the state of Iowa acting in the same or similar circumstances.
  - (3) A failure to exercise the degree of care which is ordinarily exercised by the average emergency medical care provider acting in the same or similar circumstances.
  - (4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified emergency medical care providers in this state.
  - (5) A substantial lack of knowledge or ability to discharge professional obligations within the minimum clinical standards approved by the department.
- g.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts which may constitute unethical conduct include, but are not limited to:
  - (1) Verbally or physically abusing a patient, coworker or any other individual encountered while a certified emergency medical care provider.
  - (2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa.
  - (3) Betrayal of a professional confidence.
  - (4) Engaging in a professional conflict of interest.
  - (5) Falsification of medical records, official documents or other writings or records.
- h.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- i.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- j.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- k.* Failure to report another emergency medical care provider to the department for any violations listed in these rules, pursuant to Iowa Code chapter 147A.
- l.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
- m.* Representing oneself as an emergency medical care provider when one's certification has been suspended or revoked or when one's certification is lapsed or has been placed on inactive status.
- n.* Permitting the use of a certification by a noncertified person for any purpose.
- o.* Mental or physical inability reasonably related to and adversely affecting the emergency medical care provider's ability to practice in a safe and competent manner as determined by an evaluation from a licensed evaluator of the provider's mental or physical status.
- p.* Being adjudged mentally incompetent by a court of competent jurisdiction.
- q.* Sexual harassment of a patient, student, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa. Sexual harassment includes sexual

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advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.

- r.* Habitual intoxication or addiction to drugs.
  - (1) The inability of an emergency medical care provider to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
  - (2) The excessive use of drugs which may impair an emergency medical care provider's ability to practice with reasonable skill or safety.
  - (3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- s.* Fraud in representation as to skill, ability or certification.
- t.* Willful or repeated violations of Iowa Code chapter 147A or these rules.
- u.* Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of emergency medical care, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- v.* Having certification to practice emergency medical care suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- w.* Falsifying certification renewal reports or failure to comply with the renewal audit request.
- x.* Acceptance of any fee by fraud or misrepresentation.
- y.* Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- z.* Violating privacy and confidentiality. An emergency medical care provider shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.
  - aa.* Discrimination. An emergency medical care provider shall not practice, condone, or facilitate discrimination against a patient, student, or any other individual encountered while acting as certified as an emergency medical care provider in the state of Iowa on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.
  - ab.* Practicing emergency medical services or using a designation of certification or otherwise holding oneself out as practicing emergency medical services at a certain level of certification when the emergency medical care provider is not certified at such level.
  - ac.* Failure to respond within 30 days of receipt, unless otherwise specified, to communication from the department which was sent by registered or certified mail.

**641—131.8(147A) Certification denial.**

**131.8(1)** An individual who has been denied certification by the department may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the department not more than 20 days following the date of mailing of the notification of certification denial to the individual. The request for hearing shall specifically delineate the facts to be contested at hearing.

**131.8(2)** All hearings held pursuant to this rule shall be held pursuant to the process outlined in this chapter.

**641—131.9(147A) Emergency adjudicative proceedings.** To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

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**131.9(1)** Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

- a.* Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;
- b.* Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c.* Whether the individual required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e.* Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

**131.9(2)** Issuance of order.

*a.* An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

*b.* The written emergency adjudicative order shall be immediately delivered to the individual who is required to comply with the order. Delivery shall be made by one or more of the following procedures:

- (1) Personal delivery.
- (2) Certified mail, return receipt requested, to the last address on file with the department.
- (3) Fax. Fax may be used as the sole method of delivery if the individual required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

*c.* To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

*d.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the individual who is required to comply with the order.

*e.* After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

*f.* Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the individual who is required to comply with the order is the party requesting the continuance.

**641—131.10(147A) Complaints, investigations and appeals.**

**131.10(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**131.10(2)** All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same, shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**131.10(3)** An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

**131.10(4)** Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

**131.10(5)** A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.



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**131.10(6)** Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be affected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

**131.10(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 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.

**131.10(8)** Upon receipt of a request for hearing, the department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**131.10(9)** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

**131.10(10)** When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 131.10(11).

**131.10(11)** Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

**131.10(12)** Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings on them.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

**131.10(13)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

**131.10(14)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**131.10(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 and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

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**131.10(16)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**131.10(17)** Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

These rules are intended to implement Iowa Code chapters 147A and 147D and section 272C.4.

ITEM 2. Adopt the following new 641—Chapter 139:

CHAPTER 139  
EMERGENCY MEDICAL SERVICES—TRAINING PROGRAMS—STUDENTS—COMPLAINTS  
AND INVESTIGATIONS

**641—139.1(147A) Purpose.** This chapter establishes the standards and requirements for authorization of emergency medical care training programs in the state of Iowa; establishes the requirements of the training program related to preparing students for emergency medical provider certification in the state of Iowa; and describes the authority of the department to impose disciplinary sanctions against a training program.

**641—139.2(147A) Definitions.**

*“Advanced emergency medical technician”* or *“AEMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

*“Bureau”* or *“BETS”* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

*“CAAHEP”* means the Commission on Accreditation of Allied Health Education Programs.

*“CAPCE”* means the Commission on Accreditation for Prehospital Continuing Education. CAPCE is an accrediting body charged with the review and accreditation of EMS continuing education.

*“CEH”* means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

*“Certification”* or *“certificate”* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

*“Certified”* means being officially recognized as meeting department-approved training and testing standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A.

*“Cognitive examination”* or *“written examination”* means the portion of the NREMT certification examination process evaluating the candidate’s level of EMS knowledge.

*“Core continuing education”* means education obtained during a certification period to renew certification. Core continuing education shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

*“Course completion date”* means the date of the final classroom session of an emergency medical care provider course.

*“Course coordinator”* means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course.

*“Critical care paramedic”* or *“CCP”* means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

*“Department”* means the Iowa department of public health.

*“Director”* means the director of the Iowa department of public health.

*“Emergency medical care”* means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

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*“Emergency medical care provider”* means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

*“Emergency medical care student”* or *“student”* means any individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

*“Emergency medical responder”* or *“EMR”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Responder Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

*“Emergency medical services”* or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care.

*“Emergency medical technician”* or *“EMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

*“EMS evaluator”* or *“EMS-E”* means an individual who has successfully completed an EMS evaluator curriculum approved by the department and is currently endorsed by the department as an EMS-E.

*“EMS instructor”* or *“EMS-I”* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

*“EMS training program”* or *“training program”* means an Iowa college approved by the Higher Learning Commission or an Iowa hospital authorized by the department to conduct emergency medical care training.

*“Endorsement”* or *“endorsed”* means an approval granted by the department authorizing an individual to serve as an EMS-I, EMS-E or CCP.

*“Higher Learning Commission”* means the independent corporation which accredits degree-granting postsecondary institutions in the north central region of the United States.

*“NREMT”* means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent entrance-level practice by EMS professionals.

*“Out-of-state student”* means any individual participating in clinical or field experience as a student in an approved out-of-state training program.

*“Out-of-state training program”* means an EMS training program located outside the state of Iowa that is approved by the authorizing agency of the program’s home state to conduct initial EMS training for EMR, EMT, AEMT, paramedic or other level certified by the department.

*“Outreach course coordinator”* means an individual assigned by the training program to coordinate the activities of an emergency medical care provider course held outside the training program facilities.

*“Paramedic”* or *“PM”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Paramedic Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the paramedic, and is currently certified by the department as a paramedic.

*“Physician”* means an individual licensed under Iowa Code chapter 148.

*“Physician assistant”* or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

*“Preceptor”* means an individual assigned by the training program, clinical facility or service program to supervise EMS students while the students are completing their classroom, clinical or field experience. A preceptor shall be an emergency medical care provider certified at the level at which the preceptor is providing supervision or at a higher level or be licensed as a physician, physician assistant or registered nurse.

*“Primary instructor”* means an individual who is responsible for teaching the majority of an emergency medical care provider course.

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“*Psychomotor examination*” or “*practical examination*” means the portion of the department-approved or NREMT certification examination process that evaluates the skill and procedure capabilities of the candidate.

“*Registered nurse*” or “*RN*” means an individual licensed pursuant to Iowa Code chapter 152.

“*Service program*” or “*service*” means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

“*Training program director*” means a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

“*Training program medical director*” means a physician licensed under Iowa Code chapter 148 who is responsible for providing medical oversight to an EMS training program.

**641—139.3(147A) Initial application, renewal application, inspection and approval.****139.3(1) Initial application, inspection and approval.**

a. An applicant seeking initial authorization as an EMS training program shall complete and submit to the department an Iowa EMS training program self-assessment application. The application can be downloaded from the BETS website at [idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS).

b. An applicant seeking initial authorization shall submit, along with the Iowa EMS training program self-assessment application, a needs assessment that justifies the need for the training program.

c. The department shall perform an on-site inspection of the applicant’s facilities and clinical resources. The purpose of the inspection is to examine educational objectives, patient care practices, facilities and administrative practices.

d. Following the on-site inspection, the department will provide the applicant an application report detailing the status of the application.

e. The department will approve the application and authorize the training program, determine timelines for the correction of deficiencies in the application, or deny the application. If the deficiencies are not corrected within the time period established by the department, the application will be denied.

f. A training program’s initial authorization shall not exceed one year.

g. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

**139.3(2) Renewal application, inspection and approval.**

a. A training program seeking renewal as an EMS training program shall complete and submit to the department the Iowa EMS training program self-assessment renewal application. The application can be downloaded from the BETS website at [idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS).

b. EMS training program renewal applications will be submitted at least 90 days before the end of the current authorization period.

c. The department will complete an on-site inspection and review the self-assessment prior to the end of the current authorization period.

d. Following the on-site inspection, the department will provide the training program a renewal application report detailing the status of the application.

e. The department will authorize the training program or determine timelines for the correction of deficiencies in the renewal application.

f. If the deficiencies are not corrected within the time period established by the department, the training program is subject to disciplinary action as described in rule 641—139.9(147A).

g. A training program’s approved renewal authorization shall not exceed four years.

h. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

**641—139.4(147A) Training program standards, student requirements and variances.****139.4(1) Education standards.** A training program shall:

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a. Have a sponsoring institution that is accredited by the Higher Learning Commission or its equivalent, that is recognized by the United States Department of Education as an approved Iowa college, or that is an Iowa licensed hospital that is approved by the department.

b. Use the United States Department of Transportation's Instructional Guidelines (January 2009) for any courses leading to Iowa certification.

c. Use the Iowa CCP curriculum (January 2016) for courses leading to the CCP endorsement.

d. Be accredited by, or have submitted a self-study application to, the CAAHEP if graduating students at the paramedic certification level.

e. Document equivalent training and what portions of any course have been waived for equivalency. A training program may waive portions of the required emergency medical care provider training for students currently certified as emergency medical care providers or licensed in other health care professions, including but not limited to nursing, physician assistant, respiratory therapist, dentistry, and military.

**139.4(2) Clinical or field experience resources.** Training programs shall:

a. Have a mechanism to clearly identify students in the clinical or field setting, or both.

b. Have sufficient equipment and supplies to be used in the provision of instruction. The equipment and supplies shall be available and consistent with the needs of the curriculum and adequate for the number of students enrolled.

c. Ensure that clinical experiences available are consistent with the needs of the curriculum and adequate for the number of students enrolled.

d. Ensure that clinical affiliations that are outside of the sponsoring training program are established and confirmed in written agreements with institutions or agencies that provide clinical experience under appropriate medical direction and clinical supervision.

e. Only allow students to perform skills and procedures in the classroom, clinical or field setting for which the students have received training with direct supervision by a preceptor designated and approved by the training program.

f. Have sufficient classrooms, laboratories, and administrative offices and facility design to accommodate the number of students in the program and the supporting faculty.

g. Have current approved curriculum and library resources related to the curriculum readily accessible to all enrolled students (on campus and off campus) and shall include current EMS and medical periodicals, scientific texts, audiovisual and self-instructional resources, and other appropriate references.

**139.4(3) Staff.** Training programs shall:

a. Have a training program director who is a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

b. Have a training program medical director who shall, at a minimum, review the educational content of each training program curriculum, evaluate the quality of medical instruction, and supervise delivery of the curriculum by the faculty members.

c. Have qualified faculty through academic preparation, training, and experience to teach and evaluate the courses or topics to which they are assigned. At a minimum, each course coordinator, outreach course coordinator, and primary instructor utilized by the training program shall be endorsed as an Iowa EMS instructor.

d. Be allowed to conduct the NREMT psychomotor examination according to the policies and procedures of the department and the NREMT.

**139.4(4) Student eligibility.** Training programs shall ensure that emergency medical care students meet the following requirements.

a. Be at least 17 years of age on the date of enrollment.

b. Have a high school diploma or its equivalent if enrolling in an AEMT or paramedic course.

c. Be able to speak, write and read English.

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*d.* Be able to meet the minimum requirements for the cognitive and psychomotor components of the examination with reasonable and appropriate accommodations for those persons with documented disabilities, as required by the Americans with Disabilities Act (ADA).

*e.* Be currently certified, at a minimum, as an EMT if enrolling in an AEMT or paramedic course.

*f.* Be a current emergency medical care provider, RN, PA, or physician and submit a recommendation in writing from an approved EMS training program if enrolling in an EMS instructor course.

**139.4(5) Students.** Training programs shall:

*a.* Ensure that each student submits a completed EMS student registration no later than 14 days from the beginning of an emergency medical training program course. The student registration link can be found on the BETS website at [idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS).

*b.* Have defined processes for review of academic history, criminal history, and health-related issues for the admission of students.

*c.* Have a process to evaluate students on a recurring basis and with sufficient frequency to provide both the student and training program faculty with valid and timely indicators of the student's progress and achievement of the competencies and objectives stated within the program's curriculum.

*d.* Have student guidance procedures that include documentation of regular and timely discussions with qualified faculty or counselors.

*e.* Maintain student records for each student enrolled in each program.

*f.* Notify the NREMT of each student's successful completion of a training course to ensure NREMT cognitive examination eligibility.

*g.* Verify that a student completes all training program requirements before being eligible to attempt the cognitive and psychomotor certification examinations.

*h.* Report to the NREMT successful completion of psychomotor examination of each EMR and EMT student to ensure NREMT registration eligibility.

*i.* Verify that a student completes all training program coursework, completes the cognitive and psychomotor testing and possesses a current certification with the NREMT before making application to the department for an initial Iowa emergency medical care provider certification.

*j.* Notify the department of the successful or unsuccessful status of each student at the completion of each training course.

*k.* Ensure that students function and only perform skills or procedures learned in the training program until an Iowa emergency medical care provider certification is obtained.

*l.* Ensure that a student is not substituted for the regular personnel of any affiliated medical facility or service program but may be employed while enrolled in the training program.

**139.4(6) Financing and administration.** Training programs shall:

*a.* Have adequate financial resources to ensure the continued operation of the educational program(s) in which students are enrolled.

*b.* Have a program evaluation process to gather and analyze data on the effectiveness of the program.

*c.* Notify the department, in writing, of any change in ownership or control of the training program.

*d.* Have liability insurance and offer liability insurance to students while they are enrolled in the training program.

**641—139.5(147A) Out-of-state training programs.**

**139.5(1) Application, inspection and approval.**

*a.* An out-of-state training program shall complete and submit to the department for review and approval the out-of-state training program self-assessment application. The application can be downloaded from the BETS website at [idph.iowa.gov/BETS/EMS](http://idph.iowa.gov/BETS/EMS).

*b.* An out-of-state training program's approval by the department shall not exceed four years.

*c.* An out-of-state training program seeking initial or renewal approval and graduating students at the paramedic level must also be accredited by, or must have submitted a self-study application to, the CAAHEP.

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- d.* An out-of-state training program shall be limited to utilization of clinical sites or field sites, or both, within Iowa.
- e.* An authorized out-of-state training program shall provide the department with a current roster of students who will be participating in the clinical or field experience within the state of Iowa and, for each program, the sites where the students will be participating. This roster will be provided prior to commencement of any clinical or field experience.
- f.* An out-of-state training program shall provide documentation of liability insurance for each student participating in the clinical or field setting within the state of Iowa.
- g.* Failure to comply with these requirements may lead to disciplinary action or denial of utilization of clinical or field sites in Iowa.
- h.* The department may perform an on-site inspection of the out-of-state training program's facilities and clinical and field resources as part of the initial or renewal review process.
- i.* The department without prior notification may make inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.
- j.* No person shall interfere with the inspection activities of the department or its agents.
- k.* Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.
- l.* Representatives of the training program may be required to meet with the department at the time the application and inspection report are discussed.
- m.* A written report of department action and the department inspection report shall be sent to the training program.
- n.* A training program shall notify the department, in writing, of any change in ownership or control within 30 days.

**139.5(2) Out-of-state students.**

- a.* An out-of-state student shall be registered in good standing in an approved out-of-state training program.
- b.* An out-of-state student may perform any procedures and skills for which the student is receiving training provided that the procedure or skill is within the Iowa scope of practice of a comparable Iowa emergency medical care provider. The student shall be under the direct supervision of a physician or physician designee or under the remote supervision of a physician or physician designee with direct supervision by a preceptor designated and approved by the training program.
- c.* An out-of-state student shall not be substituted for personnel of any affiliated medical facility or service program.
- d.* An out-of-state student is not eligible to continue functioning as a student of the approved out-of-state training program in the clinical or field setting (1) if the student is not in good standing with the approved out-of-state training program, (2) once the student has met the training program's requirements, or (3) once the student has been approved for certification testing.
- e.* Once all training requirements are met and the out-of-state student acquires a valid NREMT certification, the student may apply for initial Iowa EMS certification as described in rule 641—131.3(147A).

**641—139.6(147A) Failure to comply with rules.** Failure of a training program to comply with these rules may result in disciplinary action according to rule 641—139.9(147A).

**641—139.7(147A) Temporary variances.** If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary variance.

**139.7(1)** Variances to these rules may be granted by the department to a currently authorized training program.

**139.7(2)** Requests for variances shall apply only to the training program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

**139.7(3)** A training program shall apply for a variance in accordance with 641—Chapter 178.

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**641—139.8(147A) Continuing education providers—approval, record keeping and inspection.**

**139.8(1)** A training program may conduct continuing education courses utilizing training program instructors.

**139.8(2)** Each training program shall assign a sponsor number to each core continuing education course using an assignment system approved by the department.

**139.8(3)** Course approval shall be completed prior to the course's being offered.

**139.8(4)** Each training program shall maintain a participant record that includes, as a minimum:

- a.* Name.
- b.* Address.
- c.* Certification number.
- d.* Course sponsor number.
- e.* Course instructor.
- f.* Date of course.
- g.* CEHs awarded.

**139.8(5)** The department may request additional information or inspect the records of any continuing education provider who is currently approved or who is seeking approval.

**641—139.9(147A) Discipline—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal.**

**139.9(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**139.9(2)** Method of discipline. The department has the authority to impose the following disciplinary sanctions against a training program:

- a.* Issue a citation and warning.
- b.* Impose a period of probation under specific conditions.
- c.* Prohibit permanently, until further order of the department, or for a specific period, a program's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.
- d.* Suspend an authorization until further order of the department or for a specific period.
- e.* Deny an application for authorization.
- f.* Revoke an authorization.
- g.* Impose such other sanctions as allowed by law and as may be appropriate.

**139.9(3)** The department may impose any of the disciplinary sanctions provided in subrule 139.9(2) when it finds that the training program or applicant has failed to meet the applicable provisions of these rules or has committed any of the following acts or offenses:

- a.* Fraud in procuring approval or renewal.
- b.* Falsification or failure to document training or continuing education records.
- c.* Suspension or revocation of approval to provide emergency medical care training or other disciplinary action taken pursuant to Iowa Code chapter 147A. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- d.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- e.* Failure to respond within 30 days of receipt of communication from the department which was sent by registered or certified mail.
- f.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- g.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- h.* Submission of a false report of continuing education or failure to submit the quarterly report of continuing education.
- i.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.



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- j.* Representing itself as an approved training program or continuing education provider when approval has been suspended or revoked or when approval has lapsed or has been placed on inactive status.
- k.* Using an unqualified individual as an instructor or evaluator.
- l.* Allowing verbal or physical abuse of a student or staff.
- m.* Failing to verify registration of a student with the department within the timeline established by the department or allowing an unregistered student to function in a clinical environment.
- n.* A training program provider or continuing education provider shall not sexually harass a patient, student, or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.
- o.* Betrayal of a professional confidence.
- p.* Engaging in a professional conflict of interest.
- q.* Discrimination. A training program or continuing education provider shall not practice, condone, or facilitate discrimination against a patient, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.
- r.* Failure to comply with the 2015 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions published by the Commission on Accreditation of Allied Health Education Programs.

**641—139.10(147A) Complaints, investigations and appeals.**

**139.10(1)** All complaints regarding an emergency medical care student, training programs or continuing education providers or those purporting to be or operating as the same shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Service, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**139.10(2)** Any emergency medical care provider, emergency medical care student, training program or continuing education provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

**139.10(3)** Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

**139.10(4)** A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

**139.10(5)** Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

**139.10(6)** 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 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.

**139.10(7)** Upon receipt of a request for hearing, the department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based

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and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**139.10(8)** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

**139.10(9)** When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 139.10(10).

**139.10(10)** Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

**139.10(11)** Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings on them.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

**139.10(12)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

**139.10(13)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**139.10(14)** 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 and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**139.10(15)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**139.10(16)** Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

These rules are intended to implement Iowa Code chapter 147A.

[Filed 7/15/20, effective 9/16/20]

[Published 8/12/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**ARC 5144C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rule making related to emergency medical services**

The Public Health Department hereby rescinds Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code, and adopts a new Chapter 132 with the same title.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 147A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 147A.

*Purpose and Summary*

The current Chapter 132 is rescinded and replaced with a new chapter. The new chapter has been reorganized for overall readability to provide clarity, a rational structure, and other general updates. The new chapter removes redundancies between other chapters. Below is a listing of the most significant additions to the chapter:

1. Addition of definition and application of “service program affiliate.”
2. Addition of definition and application of “service program affiliate agreement.”
  - In order to develop systems of Emergency Medical Services (EMS) provision, address gaps in service and response challenges, every service program which has submitted to the Department fewer than 100 data reports per year for each of the previous two consecutive calendar years shall only be eligible for renewal of current authorization as an affiliate. The Department will provide technical assistance in developing affiliations and affiliate agreements.
  - A service program affiliate is an independently owned service program affiliated with one or more service programs or a separate management entity.
  - A service program affiliate agreement is a written agreement between one or more service programs or one or more management entities that clearly defines the responsibilities of an individual service program to ensure compliance with the rules.
  - Each service program will have a unique authorization number assigned by the Department.
  - An affiliate agreement is a tool to ensure an emergency response and comply with statute and administrative rule.
3. Addition of definition and application of “conditional service level authorization” and “full authorization” status. These additions are being made to ensure that a constant level of care can be expected by the public and allow for additional capabilities for advanced level of care if available intermittently.
  - An entity that desires to provide emergency medical care services in the out-of-hospital setting shall apply to the Department for service program full authorization and may apply for a conditional service level authorization if the entity can demonstrate advanced emergency medical care provider availability and medical director approval for conditional authorization at such level.
  - A service program which has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.
  - A service program which has been granted a conditional service level authorization must ensure a response to an initial 911 or emergency call 24 hours per day, seven days per week and shall have an executed transport agreement.

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- A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

4. Use of research- and science-based national clinical guidelines for the development of prehospital protocols. A service program's medical director shall be responsible for the development of the protocols. The Bureau of Emergency and Trauma Services (BETS) will no longer provide the protocol minimums or framework.

5. Clarification of the overall requirements of EMS programs.

6. Clarification of EMS program service owners, medical director and service director roles.

- Medical director and service director workshops are required within one year of instatement, and a refresher course is required every three years thereafter.

7. Clarification of minimum EMS program staffing.

- Transport services shall provide as a minimum, on initial 911 or emergency calls, the following staff on each primary response ambulance:

- One currently certified emergency medical care provider certified at the service program full level of authorization.

- One driver.

- Transport services shall provide as a minimum on each subsequent call or nonemergency call, when responding, the following staff:

- One currently certified emergency medical technician (EMT).

- One driver.

- Nontransporting service programs, when responding to 911 or emergency calls, shall provide as a minimum one currently certified emergency medical care provider certified at the service program full level of authorization.

- Nontransport service programs shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls.

Nontransport service programs may transport patients in an ambulance only in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

8. To ensure timely access to data and to enhance quality improvement initiatives and quality assurance, a service program shall submit reportable data to the Department no later than the last day of the month following the month services were provided.

9. A requirement that service programs shall annually inspect, repair, and maintain all ambulances operated by the service program. Vehicles shall have the exterior clean and the interior clean and disinfected.

10. A requirement that a service program shall maintain first response and rescue vehicles in safe operating condition and provide regular maintenance.

11. A requirement that new ambulances manufactured and placed into service shall meet at a minimum either the Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances or the National Fire Protection Association (NFPA) Standard for Automotive Ambulance (NFPA 1917) (does not apply to ambulances currently in service or remounts).

This rule making is undertaken because the EMS program authorization rules are outdated and do not allow for system development and authorization that align with current research- and science-based standards and practice.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4858C**.

The Department received eight comments expressing general support for the update of EMS administrative rules and one comment on full service status. Specific to Chapter 132, the Department received seven comments expressing general support, one minor clarification comment, two comments on full service status, three comments on affiliate agreements, three comments on smaller service

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

concerns, one comment on provider education, one comment on treatment refusal documentation, one comment on notification of collision, one comment on service inspection and one comment on medical director protocols. The comments were focused on minor clarifications within the named topic areas, and no specific wording changes were offered. Since publication of the Notice, minor changes for consistency have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on July 8, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 16, 2020.

The following rule-making action is adopted:

Rescind 641—Chapter 132 and adopt the following **new** chapter in lieu thereof:

CHAPTER 132

EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

**641—132.1(147A) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Advanced emergency medical technician level service*” or “*AEMT level service*” means a service program that provides emergency medical care that does not exceed the scope of practice of a certified AEMT provider as outlined in 641—subrule 131.5(2).

“*Advanced registered nurse practitioner*” or “*ARNP*” means a nurse licensed 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.

“*Ambulance*” means any privately or publicly owned ground vehicle equipped with life-support systems and specifically designed to transport the sick or injured who require emergency medical care.

“*Applicant*” means an owner of a transport or nontransport program or service program that is applying to the department for authorization as a service program or renewal of current authorization as a service program.

“*Biohazardous sharp*” means any object that has the potential to puncture the skin and may be contaminated with a biological material that is an infectious disease transmission risk.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*“Biomedical hazardous waste”* means waste product such as a biohazardous sharp or other material that may be contaminated with a biological material that is an infectious disease transmission risk.

*“Bureau”* or *“BETS”* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

*“Communication system”* means but is not limited to a telecommunication system, radio communication system, or mobile data communication system.

*“Conditional service level authorization”* means an enhanced service program authorization under which a service program may provide an advanced level of service from that routinely provided under the service program’s full authorization level, on an intermittent basis with department and medical director approval.

*“Continuous quality improvement”* or *“CQI”* means a program that is an ongoing process to monitor standards at all EMS operational levels.

*“Credentialing”* means a clinical determination that is the responsibility of a physician medical director. It is the employer or affiliating organization’s responsibility to act on the clinical credentialing status of EMS personnel in making employment or deployment decisions.

*“Critical care transport”* or *“CCT”* means a paramedic level service program that has received an endorsement from the department to provide specialty care patient transportation and that is staffed by one or more paramedics with a critical care paramedic endorsement from the department or that is staffed by other health care professionals in an appropriate specialty area.

*“Deficiency”* means noncompliance with Iowa Code chapter 147A or these administrative rules.

*“Department”* means the Iowa department of public health.

*“Director”* means the director of the Iowa department of public health.

*“Emergency medical care”* means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

*“Emergency medical care provider”* means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

*“Emergency medical responder level service”* or *“EMR level service”* means a nontransport service program that provides emergency medical care that does not exceed the scope of practice of a certified EMR provider as outlined in 641—subrule 131.5(2).

*“Emergency medical services”* or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or out-of-hospital during patient transportation in an ambulance.

*“Emergency medical technician level service”* or *“EMT level service”* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified EMT provider as outlined in 641—subrule 131.5(2).

*“Emergency medical transportation”* means transportation of a patient by an ambulance.

*“EMS clinical guidelines”* or *“minimum EMS clinical guidelines”* means a minimum clinical standard approved by the department upon which a service program’s medical director shall base service program protocols.

*“Emergency vehicle driver”* or *“driver”* means a currently licensed driver rostered with the service program or other emergency response personnel with emergency vehicle driving training.

*“Endorsement”* means an approval granted by the department authorizing a paramedic level service program to provide critical care transport (CCT).

*“First response vehicle”* means any privately or publicly owned vehicle that is not an ambulance and that is used solely for the transportation of personnel and equipment to and from the scene of an emergency.

*“Full authorization”* means a service program authorization under which a service is authorized to provide and routinely provides a specific level of emergency medical care for initial 911 or emergency calls 24 hours per day, seven days per week.

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*“Hospital”* means any hospital licensed under the provisions of Iowa Code chapter 135B.

*“Iowa EMS Registry Data Dictionary”* means reportable EMS data elements and definitions determined by the department and adopted by reference.

*“Medical direction”* means direction, advice, or orders provided by a medical director, supervising physician, PA, or ARNP to emergency medical care personnel.

*“Medical director”* means a physician designated by the service program and responsible for providing medical direction and overall supervision of the medical aspects of the service program.

*“Nontransport service”* means any privately or publicly owned service program which does not provide patient transportation and provides emergency medical care at the scene of an emergency.

*“Paramedic level service”* or *“PM level service”* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified paramedic provider as outlined in 641—subrule 131.5(2).

*“Patient care report”* or *“PCR”* means a report that documents the assessment and management of the patient by the emergency care provider.

*“Physician”* means an individual licensed under Iowa Code chapter 148.

*“Physician assistant”* or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

*“Primary response ambulance”* means any ambulance utilized by a service program and dispatched as the initial ambulance response to a 911 or emergency call.

*“Protocols”* means written directions and orders approved by a service program’s medical director utilizing the EMS clinical guidelines.

*“Registered nurse”* or *“RN”* means an individual licensed pursuant to Iowa Code chapter 152.

*“Service director”* means an individual designated by the service program who is responsible for the operation and administration of a service program.

*“Service program”* or *“service”* means any transport service or nontransport service, inclusive of associated satellites, that has received full or conditional authorization from the department.

*“Service program affiliate”* or *“affiliate”* means an independently owned service program affiliated with one or more service programs or a separate management entity.

*“Service program affiliate agreement”* or *“affiliate agreement”* means a written agreement executed between one or more service programs or one or more management entities and filed with the department that clearly defines the responsibilities of each service program to ensure compliance with these rules.

*“Service program base of operation”* means the physical location from which a service program responds and at which the service program houses emergency medical care personnel and equipment.

*“Service program ownership”* means the legal owner of the service program responsible for providing emergency medical care and compliance with Iowa Code chapter 147A and these rules.

*“Service program satellite”* or *“satellite”* means one or more additional service program locations owned by the same service program.

*“Tiered response”* means a rendezvous between service programs to allow the transfer, continuation, or enhancement of patient care.

*“Transport agreement”* means a written agreement executed between two or more service programs and filed with the department that ensures response and transportation for initial 911 or emergency calls. A transport agreement may be a component of an affiliate agreement.

*“Transport service”* means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation.

**641—132.2(147A) Service program—authorization and renewal procedures and inspections.**

**132.2(1) Requirements for initial service program authorization.**

a. An entity that desires to provide emergency medical care services in the out-of-hospital setting in this state shall apply to the department for service program full authorization and may apply for a conditional service level authorization if the entity can demonstrate advanced emergency medical care provider availability and medical director approval for conditional authorization at such level.

b. Information for initial authorization can be found on the BETS website ([www.idph.iowa.gov/BETS](http://www.idph.iowa.gov/BETS)).

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*c.* Transport service—full authorization. An entity seeking authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care which will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

- (1) EMT.
- (2) AEMT.
- (3) Paramedic.

*d.* Transport service—conditional service level authorization. An entity seeking authorization as a transport service which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

- (1) AEMT.
- (2) Paramedic.

*e.* Nontransport service—full authorization. An entity seeking authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care which will be provided for initial 911 or emergency calls 24 hours per day, seven days per week. The nontransport service program shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls. The nontransport service shall apply for full authorization at the following EMS service levels:

- (1) EMR.
- (2) EMT.
- (3) AEMT.
- (4) Paramedic.

*f.* Nontransport service—conditional service level authorization. An entity seeking authorization as a nontransport service program that has an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls and is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

- (1) EMT.
- (2) AEMT.
- (3) Paramedic.

*g.* Conditional service level authorization restrictions and requirements.

(1) A service program which has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

*h.* An applicant should expect a minimum of a 30-day time period for review of the application, completion of an inspection, and response by the department regarding authorization status.

*i.* Deficiencies that are identified during the application review and inspection process by the department shall be corrected prior to service program authorization.

*j.* An applicant may be authorized as a service program when the department is satisfied that the program proposed by the applicant and associated satellites or affiliates will be operated in compliance with Iowa Code chapter 147A and these rules.

*k.* An applicant for authorization as a service program shall be fully operational upon the effective date specified on the certificate of authorization and shall ensure compliance with Iowa Code chapter 147A and these rules.

*l.* Initial service program authorization shall be valid for a period of one year from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked or surrendered.



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*m.* An applicant shall provide evidence of liability insurance coverage for the service program and emergency medical care provider staff. Any change in insurance status must be reported to the department no later than 30 days from the change.

*n.* An applicant seeking endorsement as a CCT must provide verification that the service program will be staffed by one or more paramedics with a critical care paramedic endorsement from the department or by other health care professionals when providing specialty care and transport.

**132.2(2) Requirements for renewal of service program authorization.**

*a.* A service program seeking renewal of current authorization shall complete a process initiated by the department for renewal of the service program that includes the service program base of operations and all associated satellites and affiliates.

*b.* A service program seeking renewal of current authorization shall submit all required documentation to the department at least 90 days prior to the current authorization expiration date.

*c.* Transport service—full authorization. An entity seeking renewal authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care which will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

- (1) EMT.
- (2) AEMT.
- (3) Paramedic.

*d.* Transport service—conditional service level authorization. An entity seeking renewal authorization as a transport service which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

- (1) AEMT.
- (2) Paramedic.

*e.* Nontransport service—full authorization. An entity seeking renewal authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care which will be provided for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

- (1) EMR.
- (2) EMT.
- (3) AEMT.
- (4) Paramedic.

*f.* Nontransport service—conditional service level authorization. An entity seeking renewal authorization as a nontransport service program which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

- (1) EMT.
- (2) AEMT.
- (3) Paramedic.

*g.* Conditional service level authorization restrictions and requirements.

(1) A service program which has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

*h.* Effective January 1, 2022, a service program which has submitted to the department fewer than 100 data reports per year for each of the previous two consecutive calendar years shall only be eligible for renewal of current authorization as an affiliate. The department will provide technical assistance in developing affiliations.

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*i.* The department shall review the application and complete an inspection of the service program base of operations and all associated satellites and affiliates prior to renewal of current authorization.

*j.* A service program shall receive a renewal of authorization only when the department is satisfied that the service program and all associated satellites and affiliates will be operated in compliance with Iowa Code chapter 147A and these rules.

*k.* A service program shall be fully operational upon the effective date specified on the certificate of authorization and shall ensure compliance with Iowa Code chapter 147A and these rules.

*l.* A service program renewal authorization shall be valid for a period not to exceed three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner revoked or suspended or surrendered.

*m.* A certificate of authorization shall be issued to the service program owner listed on the application.

*n.* A service program shall provide evidence of liability insurance coverage for the service program and emergency medical care provider staff. Any change in insurance status must be reported to the department no later than 30 days after the change.

*o.* An applicant seeking endorsement as a CCT must provide verification that the service program will be staffed by one or more paramedics with critical care paramedic endorsement by the department or other health care professionals when providing specialty care and transport.

**132.2(3) Reinstatement of service program authorization.**

*a.* A service program whose full authorization or conditional service level authorization has been revoked or suspended or surrendered may apply to the department for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the authorization is permanently revoked.

*b.* If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur or if the authorization was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

*c.* All proceedings for reinstatement shall be initiated by the service program, which shall file with the department an application for reinstatement of the authorization. Such application shall be docketed in the original case in which the authorization was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the department.

*d.* An application for reinstatement shall be made in accordance with 132.2(1) and shall contain facts that will be sufficient to enable the department to determine that the basis for the revocation or suspension of the service program's authorization no longer exists and that it will be in the public interest for the authorization to be reinstated. The burden of proof to establish such facts shall be on the service program.

*e.* An order denying or granting reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law. The order shall be published as provided for in this chapter.

**132.2(4) Out-of-state service programs.**

*a.* An emergency medical service program authorized and based in another state shall provide the department with verification of current state authorization upon request and may provide emergency medical care to patients in Iowa to:

- (1) Transport from locations outside of Iowa to destinations within Iowa;
- (2) Transport to or from locations outside of Iowa that require travel through Iowa;
- (3) Transport from locations in Iowa to destinations outside of Iowa;
- (4) Respond to a request for mutual aid.

*b.* A service program authorized and based in another state shall meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department to respond to 911 requests in Iowa to transport patients in Iowa to locations within Iowa.

**132.2(5) Service program inspections.**

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- a.* The department at a minimum shall complete an inspection of each base of operations, all associated satellites, and all affiliate locations prior to initial authorization or renewal of current full authorization or conditional service level to ensure compliance with Iowa Code chapter 147A and these rules.
- b.* The department without prior notification may make additional inspections at times, at places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.
- c.* Service program inspection forms are available on the BETS website ([www.idph.iowa.gov/BETS](http://www.idph.iowa.gov/BETS)).
- d.* Following a service program inspection, the department shall provide a copy of the completed inspection form and report to the service program.
- e.* A service program shall correct deficiencies identified during a service program inspection within the time period specified by the department on the inspection form. Failure to correct identified deficiencies within the specified time period may result in disciplinary action.
- f.* The department may request additional information from or may inspect the records of any service program or associated satellite or associated affiliate which is currently authorized or which is seeking authorization to ensure continued compliance or to verify the validity of any information presented on the application for initial service program authorization or renewal of current authorization.
- g.* The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.
- h.* No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.
- i.* Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action.

**641—132.3(147A) Service program operations.****132.3(1) Ownership.**

- a.* Each service program will have a unique authorization number assigned by the department.
- b.* A service program with satellites will have a single authorization number assigned by the department for all locations.
- c.* A service program owner shall ensure compliance with Iowa Code chapter 147A and these rules.
- d.* A service program shall report any change in ownership to the department at least seven days prior to the change.
- e.* A service program changing ownership shall apply to the department at least seven days prior to the change in ownership for initial authorization in accordance with 132.2(1).

**132.3(2) Medical director.**

- a.* Each service program shall have a designated medical director at all times.
- b.* A medical director shall:
- (1) Be accessible for medical direction 24 hours per day, seven days per week or ensure accessibility to alternate medical direction.
  - (2) Ensure that all duties and responsibilities of the medical director are not relinquished before a new or temporary replacement is functioning in that capacity.
  - (3) Complete a department-sponsored medical director training within one year of assuming duties as a medical director and at a minimum once every three years thereafter.
  - (4) Develop, approve, and update service program protocols that meet or exceed the minimum EMS clinical guidelines approved by the department.
  - (5) Ensure that the emergency medical care providers rostered with the service program are credentialed in the emergency medical skills to be provided and the duties of the emergency medical care provider do not exceed the provider's scope of practice as referenced in 641—subrule 131.5(2) and the service program's EMS service level of authorization.
  - (6) Be available for individual evaluation and consultation with service program personnel.

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- (7) Have authority to restrict a service program's authorized functional EMS service level.
- (8) Have the authority to permanently or temporarily restrict a service program member to function within a lower level scope of practice or prohibit a service program member from providing patient care.
- (9) Approve the service program's CQI program.
- (10) Perform or complete, or appoint a designee to perform or complete, the medical audits in the service program's established CQI policy.
- (11) Randomly audit (on at least a quarterly basis) documentation of calls where emergency medical care was provided.
- (12) Randomly review audits performed by the qualified appointee.
  - c. A medical director may:
    - (1) Make additions to the department-approved EMS clinical guidelines when developing service protocols provided the additions are within the service program's level of authorization, the EMS provider's scope of practice, and acceptable medical practice.
    - (2) Request that service program providers provide additional emergency medical care skills on a limited pilot project basis. The pilot project applications are available on the BETS website ([www.idph.iowa.gov/BETS](http://www.idph.iowa.gov/BETS)). The department will issue written notice of an approved or rejected pilot project.
    - (3) Approve the PA and RN exception form identifying the level of EMS provider equivalency not to exceed the service program's EMS service level authorization for each PA and RN who will be providing emergency medical care as part of the service program.
  - d. A medical director who receives no compensation for the performance of the director's volunteer duties under this chapter shall be considered a state volunteer as provided in Iowa Code section 669.24 while performing volunteer duties as an emergency medical services medical director. Compensation does not include payments for reimbursement of expenses.
  - e. A medical director, supervising physician, PA, or ARNP who gives orders to an emergency medical care provider is not subject to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.
  - f. Nothing in these rules requires or obligates a medical director, supervising physician, PA, or ARNP to approve requests for orders received from an emergency medical care provider.
  - g. A service program medical director who fails to comply with Iowa Code chapter 147A or these rules may be referred to the Iowa board of medicine.

**132.3(3) Service director.**

- a. Each service program shall have a designated service director at all times.
- b. A service director shall:
  - (1) Be accessible 24 hours per day, seven days per week or ensure accessibility to a service director designee.
  - (2) Be responsible for providing direction and overall supervision of the administrative and operational aspects of the service program.
  - (3) Ensure that all duties and responsibilities of the service director are not relinquished before a new or temporary replacement is functioning in that capacity.
  - (4) Complete a department-sponsored training within one year of assuming duties as a service director and at a minimum once every three years thereafter.
  - (5) Ensure the service program is in compliance with service program policy, Iowa Code chapter 147A and these rules.
  - (6) Ensure that duties of the service program's emergency medical care providers do not exceed the providers' scope of practice as referenced in 641—subrule 131.5(2) or the service program's EMS service level of authorization.

**132.3(4) Service program requirements.**

- a. A service program shall:
  - (1) Not advertise or otherwise imply or hold itself out to the public as a service program unless currently authorized by the department.

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- (2) Only advertise at or otherwise hold itself out as having the level of full authorization.
- (3) Select a new or temporary medical director if the current medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current medical director relinquishes the duties and responsibilities of that position.
- (4) Notify the department in writing within seven days prior to any change in medical director or any reduction or discontinuance of operations.
- (5) Select a new or temporary service director if the current service director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current service director relinquishes the duties and responsibilities of that position.
- (6) Notify the department in writing within seven days prior to any change in service director or any reduction or discontinuance of operations.
- (7) Notify the department within seven days prior to any change in location of a service program base of operations, administrative office, satellite, or affiliate.
- (8) Notify the department within seven days when entering into agreements with one or more service programs or a management entity to form multiservice systems for shared service program management, administration, data submission, or other services to ensure compliance with these rules.
- (9) Report the termination or resignation in lieu of termination of an emergency medical care provider due to negligence, professional incompetency, unethical conduct, substance use, or violation of any of these rules to the department in writing within ten days.
- (10) Report theft of drugs to the department in writing within 48 hours following the occurrence of the incident.
- (11) Develop a notification process for service members in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle when used by a service program member responding as a member of the service program.
- (12) Notify the department in writing within 48 hours of a motor vehicle collision resulting in personal injury or death.
- (13) Ensure a response to an initial 911 or emergency call request to the service program, 24 hours per day, seven days per week.
- (14) Utilize protocols developed and approved by the service program medical director that meet or exceed the minimum EMS clinical guidelines approved by the department.
- (15) Ensure alterations to the minimum EMS clinical guidelines by the service program's medical director are approved by and filed with the department.
- (16) Maintain a communication system at a minimum between medical direction, receiving facility, and other emergency responders.
- (17) Maintain a current personnel roster utilizing a department-approved registry system. Ensure all rostered personnel are currently certified as active EMS providers in the state of Iowa.
- (18) Maintain files with medical director and department-approved PA and RN exception forms for appropriate personnel. PA and RN forms are available on the BETS website ([www.idph.iowa.gov/BETS](http://www.idph.iowa.gov/BETS)).
- (19) Ensure all service program members who operate motorized emergency response vehicles, ambulances, and rescue vehicles when used by a service member responding as a member of the service have a valid driver's license and attend driver training prior to driving an emergency vehicle.
- (20) Develop, maintain and follow a written driver training policy that includes a review of Iowa laws regarding emergency vehicle operations (Iowa Code section 321.231), frequency of service required driver training, a review of service program policies and criteria for response with lights or sirens or both, speed limits, procedure for approaching intersections, and use of the service program communications equipment.
- (21) Ensure the emergency medical care provider with the highest level of certification attends the patient unless otherwise indicated by patient assessment and approved by the service program's protocols.
  - b. A transport service program shall:

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(1) Provide as a minimum, on initial 911 or emergency calls, the following staff on each primary response ambulance:

1. One currently certified emergency medical care provider certified at the service program full level of authorization.

2. One driver.

(2) Provide as a minimum on each subsequent call or nonemergency call, when responding, the following staff:

1. One currently certified EMT.

2. One driver.

(3) Establish a transport decision policy that requires a complete assessment of a patient in order to determine transport needs. The service transport decision policy shall include:

1. The Out-of-Hospital Trauma and Triage Destination Decision Protocol as described in 641—Chapter 135.

2. Time critical condition considerations for transport to facilities that specialize in conditions such as cardiac conditions or stroke.

3. A process for a service program provider to determine transportation to a hospital, medical clinic, extended care facility, or other facilities where health care is routinely provided.

4. A process for patient refusal or nontransport if emergency transport is not warranted. The service program provider will obtain a signed transport/treatment refusal document or liability release if transport is not required.

5. A process by which a service program provider may make arrangements for alternate transport if emergency transport is not needed and remain with the patient until alternate transport arrives unless the provider is called to respond to another emergency.

c. Nontransport service programs.

(1) Nontransporting service programs, when responding to 911 or emergency calls, shall provide as a minimum one currently certified emergency medical care provider certified at the service program full level of authorization.

(2) Nontransport service programs shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls.

(3) Nontransport service programs may transport patients in an ambulance only in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

**132.3(5) Data reporting.**

a. “The Iowa Emergency Medical Services Data Dictionary” (September 2019) is incorporated by reference for data to be reported to the EMS data registry. For any differences which may occur between the adopted reference and the rules in this chapter, the rules shall prevail.

b. “The Iowa Emergency Medical Services Data Dictionary” is 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 website ([www.idph.iowa.gov/BETS](http://www.idph.iowa.gov/BETS)).

c. A service program shall report data electronically to the department.

d. A service program shall submit data in a format approved by the department.

e. A service program shall submit reportable data to the department no later than the last day of the month following the month services were provided.

f. The department shall prepare compilations for release or dissemination on reportable data entered into the EMS data registry during the reporting period. The compilations shall include, but not be limited to, trends and clinical outcomes for local, regional and statewide evaluations. The compilations shall be made available to all providers submitting reportable patient data to the registry.

g. The data collected by the EMS data registry and furnished to the department pursuant to this rule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7(2). However, information which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

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*h.* The department may approve requests for reportable patient data for special studies and analysis provided:

(1) The request has been reviewed and approved by the department with respect to the scientific merit and confidentiality safeguards.

(2) The department has given administrative approval for the proposal.

(3) The confidentiality of patients and service programs is protected pursuant to Iowa Code section 22.7 and chapter 147A.

(4) The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable data.

*i.* For the purpose of ensuring the completeness and quality of reportable data, the department or authorized representative may examine all or part of the data record as necessary to verify or clarify all reportable data submitted by a service program.

*j.* To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

*k.* A service program will develop, maintain and follow a written data submission policy.

**132.3(6) Patient care reporting.**

*a.* Each service program, satellite, and affiliate shall complete and maintain a patient care report documenting the care provided to each patient.

*b.* The patient care report is a confidential document and shall be exempt from disclosure pursuant to Iowa Code section 22.7(2) and shall not be accessible to the general public. Information contained in these reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner which prevents the identification of any patient or person named in these reports.

*c.* To facilitate the continuum of care, transport service programs shall provide at a minimum, upon delivery of a patient to a receiving facility, a verbal patient care report that contains details of the assessment and care provided.

*d.* Transport service programs shall provide a final patient care report within 24 hours to the receiving facility. Transport services and receiving facilities must work together to initiate reasonable and realistic mechanisms (including but not limited to paper, secure email, secure links, secure electronic system retrieval, and access to printers at the receiving facility) to ensure the delivery of the patient care report.

*e.* A service program will develop, maintain, and follow a written patient care report policy.

**132.3(7) Continuous quality improvement (CQI).**

*a.* A service program shall develop, maintain, and follow a CQI program that follows a written CQI policy.

*b.* The CQI program shall include medical audits that review patient care provided.

*c.* The CQI program shall be utilized to identify deficiencies or potential deficiencies regarding medical knowledge or skill or procedure performance.

*d.* The CQI program shall review at a minimum 911 response and scene times.

*e.* The CQI program shall develop a written plan that monitors, identifies and documents at a minimum continuing education, credentialing of skills and procedures, and personnel performance for the service program's emergency medical care providers, drivers, PA and RN exceptions.

*f.* The CQI program shall establish measurable outcomes that reflect the goals and standards of the service program.

*g.* The CQI program shall ensure completion of loop closure/resolution of identified areas of concern.

**132.3(8) Medications in service programs.**

*a.* A service program shall have written pharmacy agreements in accordance with the Iowa board of pharmacy's 657—Chapter 11.

*b.* A service program shall maintain all medications in accordance with the rules of the Iowa board of pharmacy's 657—Chapters 10 and 11.

*c.* A service program shall develop, maintain, and follow a written pharmacy policy.

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**132.3(9) Vehicle standards, supplies, equipment and maintenance.**

a. Effective January 1, 2022, all service programs, regardless of their designation as governmentally owned, not-for-profit, or privately operated, shall annually systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all ambulances operated by the service program.

b. A service program shall utilize a vehicle inspection report approved by the department to record the results of an annual ambulance safety inspection. Annual safety inspection forms which comply with the requirements of 49 CFR 396 shall be approved by the department. A sample annual vehicle inspection form which complies with the reporting requirements of 49 CFR 396 can be found on the BETS website ([www.idph.iowa.gov/BETS/EMS](http://www.idph.iowa.gov/BETS/EMS)).

c. A service program shall ensure individuals performing annual safety inspections are qualified and capable of performing an inspection by reason of experience, training, or both.

d. A service program shall not use an ambulance that fails to meet or maintain the requirements of this subrule to transport patients.

e. A service program shall house primary response ambulances in a garage or other enclosed facility that is maintained in a clean, safe condition, free of debris or other hazards; is temperature controlled; and has an unobstructed exit to the street.

f. A service program shall secure all equipment stored in the ambulance patient compartment so the patient and service program personnel are not injured by moving equipment.

g. Effective January 1, 2022, new ambulances manufactured and placed into service shall meet at a minimum either the Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances or the National Fire Protection Association (NFPA) Standard for Automotive Ambulances (NFPA 1917).

h. A service program shall maintain first response and rescue vehicles in safe operating condition and provide regular maintenance. Vehicles shall have the exterior clean and the interior clean and disinfected.

i. A service program shall ensure medical and patient care supplies are monitored for expiration dates, cleaned, laundered or disinfected. All medical supplies shall be stored in clean environments.

j. A service program shall ensure personal protection equipment and supplies are available to ensure emergency medical care responder safety during every response.

k. A service program shall ensure supplies to properly dispose of biomedical hazardous waste are available in all response vehicles, and all waste shall be disposed of according to accepted biomedical waste practices.

l. A service program shall ensure medical equipment is maintained per manufacturer requirements for safe emergency medical care provider and patient use.

m. A service program shall develop, maintain, and follow vehicle standards, supplies, and equipment maintenance policies.

**641—132.4(147A) Variances.** If during a period of authorization, a service program is unable to maintain compliance with Iowa Code chapter 147A and these rules, the department may grant a variance.

**132.4(1)** Variances to these rules may be granted by the department to a currently authorized service program.

**132.4(2)** Requests for variances shall apply only to the service program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

**132.4(3)** A service program shall apply for a variance in accordance with 641—Chapter 178.

**641—132.5(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.**

**132.5(1)** All complaints regarding the operation of authorized emergency medical care service programs, or those purporting to be or operating as the same, shall be reported to the department. The



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address is: Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**132.5(2)** Complaints and the investigative process will be treated as confidential in accordance with Iowa Code section 22.7 and chapter 272C. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days following knowledge of the violation.

**132.5(3)** Service program authorization may be denied, issued a civil penalty not to exceed \$1,000, issued a citation and warning, placed on probation, suspended, revoked, or otherwise disciplined by the department in accordance with Iowa Code section 147A.5(3) for any of the following reasons:

- a.* Knowingly allowing the falsifying of a patient care report (PCR).
- b.* Failure to submit required reports and documents.
- c.* Delegating professional responsibility to a person when the service program knows that the person is not qualified by training, education, experience or certification to perform the required duties.
- d.* Practicing, condoning, or facilitating discrimination against a patient, student or employee based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability diagnosis, or social or economic status.
- e.* Knowingly allowing sexual harassment of a patient, student or employee. Sexual harassment includes sexual advances, sexual solicitations, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- f.* Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.
- g.* Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means or misrepresentation or by submitting false information.
- h.* Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.
- i.* Failure to correct a deficiency within the time frame required by the department.
- j.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- k.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- l.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- m.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
- n.* Acceptance of any fee by fraud or misrepresentation.
- o.* Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- p.* Violating privacy and confidentiality. A service program shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.
- q.* Practicing emergency medical services or using a designation of certification or otherwise holding itself out as practicing emergency medical services at a certain level of authorization when the service program is not authorized at such level.
- r.* Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department which was sent by registered or certified mail.

**132.5(4)** The department shall notify the applicant of the granting or denial of authorization or renewal, or shall notify the alleged violator of action to issue a citation and warning, place on probation or suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a denial, citation and warning, probation, suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

**132.5(5)** Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal 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

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the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the notice shall be deemed to be suspended. 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. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request for appeal 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.

**132.5(6)** Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**132.5(7)** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

**132.5(8)** When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in 132.5(9).

**132.5(9)** Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

**132.5(10)** Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections, and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

**132.5(11)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

**132.5(12)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**132.5(13)** 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: Bureau of Emergency and Trauma Services, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**132.5(14)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**132.5(15)** Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

**132.5(16)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**132.5(17)** Emergency adjudicative proceedings.

*a.* Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend an authorization in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

*b.* Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

(1) Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

(2) Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

(3) Whether the program required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

(4) Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

(5) Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

*c.* Issuance of order.

(1) An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

(2) The written emergency adjudicative order shall be immediately delivered to the service program that is required to comply with the order by utilizing one or more of the following procedures:

1. Personal delivery.

2. Certified mail, return receipt requested, to the last address on file with the department.

3. Fax. Fax may be used as the sole method of delivery if the service program required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

(3) To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

(4) Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the service program that is required to comply with the order.

(5) After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the service program that is required to comply with the order is the party requesting the continuance.

These rules are intended to implement Iowa Code chapter 147A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR  
ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 123 of the Governor's proclamation of disaster emergency issued June 25, 2020: [governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.06.25.pdf](https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.06.25.pdf).